

Decision 97-08-064 August 1, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's
Proposed Policies Governing Restructuring
California's Electric Services Industry and Reforming
Regulation.

Rulemaking 94-04-031
(Filed April 20, 1994)

Order Instituting Investigation on the Commission's
Proposed Policies Governing Restructuring
California's Electric Services Industry and Reforming
Regulation.

Investigation 94-04-032
(Filed April 20, 1994)

**OPINION REGARDING THE BUDGET OF THE JOINT CUSTOMER EDUCATION
PROGRAM AND MODIFICATION OF D.97-03-069 AND D.97-05-040**

Summary

Today's decision addresses the proposed joint, statewide customer education program (CEP) which was first addressed by the Commission in Decision (D.) 97-03-069. In that decision, the Commission authorized the three largest investor-owned electrical corporations in California to devise and implement a statewide, joint CEP. Southern California Water Company (SCWC) was also granted permission to join in this effort in an Administrative Law Judge's (ALJ) ruling dated June 3, 1997.

Public Utilities (PU) Code Section 392, which was enacted by the California Legislature's electric restructuring bill, Assembly Bill (AB) 1890 (Stats. 1996, ch. 854), requires the investor-owned electrical corporations to devise and implement a CEP in conjunction with the Commission.¹ The CEP is to inform customers of the changes to the electric industry, so that customers have the information necessary to help them make appropriate choices with respect to their electric service options. The CEP is subject to the Commission's approval.

The importance of the joint CEP is that it is the means by which most residential and small commercial customers will learn about the regulatory changes to the electric industry, and how those changes will impact consumers. The CEP that we authorize today will be the source of unbiased information about these changes. In approving the CEP, we set the groundwork for the education of all customers. It is through this educational effort that consumers will learn about choice in the new competitive market. This choice will foster the development of increased participation in direct access.

In the coming months, this comprehensive and integrated educational effort will cover virtually the entire state with messages about electric restructuring, how it affects

¹ Unless otherwise noted, all "section" references are to the PU Code.

consumers, and what choices are available to consumers under this new competitive structure. Through mass media, a toll-free call center number, the mail, and outreach to various communities in this state, consumers will become educated about electric restructuring issues and how it affects them.

We authorize a total budget of \$89.3 million for all of the electric restructuring education activities. This is \$1.2 million less than originally proposed. This includes funding for: the advertising effort to inform consumers in the amount of \$73.84 million as compared to the requested budget of \$85.3 million; the Commission's educational outreach efforts in the amount of \$2.45 million; and community-based education and outreach in the amount of \$13 million. We have reoriented this electric restructuring effort toward a greater focus on the use of community-based organizations by funding the Electric Education Trust (EET) with \$10 million. This amount is designated specifically for these community-based outreach and education efforts. The EET was previously authorized \$3 million to promote consumer education about the changes to the electric industry. We believe that the various approaches that make up the total CEP effort fulfill the Legislature's intent to inform consumers of the upcoming changes by providing sufficient and reliable information.

As we move forward to implement the CEP before direct access begins, we believe that it is important that the utilities take over the direct management of the statewide advertising efforts, rather than have the Electric Restructuring Education Group (EREG) continue to oversee and manage the joint CEP on behalf of the utilities. This is of special concern in light of our adoption of the 60% aided awareness target that the CEP is to achieve, and the potential disallowance mechanism if the CEP fails to achieve the target.

Today's decision also makes some clarifying modifications to D.97-03-069 and to D.97-05-040.

Background

In order to fulfill the legislative mandate expressed in Section 392(d), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (Edison) filed a joint proposal on November 26,

1996 to implement a CEP.² In D.97-03-069, the Commission adopted the joint proposal of the IOUs to devise and implement a joint CEP. The IOUs had also recommended that a body of stakeholders be established to provide oversight for the development and implementation of the CEP, and that a consultant be retained by this body to develop and implement the CEP messages. The Commission approved the utilities' plan to form this stakeholder group, which has come to be known as the EREG. The purpose of the EREG is to effectuate the joint CEP on behalf of the three utilities.

The EREG members were subsequently appointed by PG&E, SDG&E, and Edison. The members of EREG undertook the task of organizing the group and retained DDB Needham of Los Angeles as a consultant to assist the EREG in the development of a proposed work scope, budget, and funding request for a statewide, joint CEP on behalf of the three utilities.³

In compliance with Ordering Paragraph 3.f. of D.97-03-069, the three utilities, on behalf of the EREG, filed a motion on June 2, 1997 for the Commission to approve the proposed CEP work scope, budget, and funding request (hereinafter, "proposed CEP"). The EREG held an informational meeting on June 3, 1997 to present and explain its proposed CEP to the Commission and to the public. Commissioners P. Gregory Conlon, Jessie J. Knight, Jr., and Josiah L. Neeper attended this briefing.

On June 6, 1997, an Assigned Commissioners' Ruling (ACR) was issued which asked interested parties to respond to some questions that Commissioners Knight and Neeper had about the proposed CEP. The ACR also informed the parties that Commissioner Knight had requested various marketing and media trade associations to

² We sometimes refer to all of the utilities participating in the joint CEP as the investor-owned utilities or IOUs.

³ According to the proposed CEP, DDB Needham is the largest advertising agency in the United States, and the fifth largest advertising agency worldwide.

comment on the proposed CEP. Interested persons were given the opportunity to file comments on the questions raised in the ruling, and to the comments of the marketing and media trade associations. In addition, the ruling granted the EREG and other interested persons permission to file reply comments to the motion to adopt the proposed CEP.

In accordance with Ordering Paragraph 3.f. of D.97-03-069, comments by other parties were filed in response to the June 2, 1997 motion to adopt the EREG's proposed CEP, as well as to the June 6, 1997 ruling. Comments ranged from full support of the proposed CEP to opposition to the proposed CEP.

The three utilities, on behalf of the EREG, filed its reply to the other parties' comments on June 23, 1997. The EREG's response addressed some of the comments of the other parties on the proposed CEP, and provided additional clarification with respect to some of the CEP activities discussed in the proposed CEP.

The comments of the marketing and media trade associations were summarized in a June 24, 1997 ACR. In accordance with the June 6, 1997 ACR, reply comments by the other parties to the EREG's reply comments and to the issues raised in the June 6 and June 24 ACRs were filed by interested persons.

Several other persons and organizations submitted letters to the Commissioners about the proposed CEP. Those letters were never formally filed with the Docket Office. To the extent that those letters raise issues that were not addressed in the filed pleadings, we have strived to address those other issues in this decision as well.

Small and multi-jurisdictional investor-owned electrical corporations in California have taken different approaches to fulfilling their responsibility under AB 1890 to devise and implement a CEP. As previously stated, SCWC, which operates an electrical corporation in the community surrounding Big Bear Lake in San Bernardino County, filed a motion on May 12, 1997 for permission to participate in the joint CEP. That motion was granted in an ALJ ruling dated June 6, 1997.

Kirkwood Gas & Electric Company (Kirkwood) filed a motion on May 7, 1997 for leave to file an application to comply with the provisions of AB 1890 in a consolidated fashion. In a Coordinating Commissioner's Ruling dated June 3, 1997,

Kirkwood was granted permission to file a separate application regarding its compliance with AB 1890. Kirkwood's application was filed on July 3, 1997 as Application (A.) 97-07-005.

On May 30, 1997, PacifiCorp, which does business in California as Pacific Power & Light Company, filed a motion to request Commission authorization for it to establish its own CEP. Sierra Pacific Power Company (Sierra Pacific) also filed a motion on May 30, 1997 for permission to implement a separate customer education program. In addition, SDG&E filed a motion on May 30, 1997 requesting permission to devise and implement a utility-specific CEP. PG&E also filed a pleading on May 30, 1997 which provides "notification of its intent to engage in some consumer education efforts about electric restructuring that are specific to PG&E and independent of the statewide Consumer Education Program." All four of these pleadings regarding their proposed utility-specific CEPs are addressed in a separate Commission decision, D.97-08-063.

In D.97-03-069, the Commission authorized the Commission staff to develop outreach plans as part of a coordinated CEP effort. The Energy Division and Consumer Services Division filed a staff report on May 12, 1997 describing the kinds of outreach activities the staff could undertake. A revised staff report, which incorporated the comments of others to the May 12, 1997 staff report, was filed on July 14, 1997.

Integral to the process of the development of the proposed CEP is the Consumer Education Advisory Panel (CEAP). The CEAP was authorized in D.97-03-069 to assist the Commission in the evaluation of the joint CEP, and to provide input into the development of the Commission's own outreach plan. The CEAP met seven times in June of 1997 to discuss and evaluate the proposed CEP. The CEAP also sought the input of Professor Brenda Dervin of Ohio State University, who had reviewed the Caller Identification (Caller ID) Customer Notification and Education Plan (CNEP) for the Commission in 1995. The CEAP submitted its "Report to the Commission on the Proposed Consumer Education Plan" (CEAP Report) on June 30, 1997. The CEAP met with members of the Commission on July 14, 1997 and July 16, 1997, to summarize the CEAP Report, and to address the Commission's outreach activities.

Description of the Joint Proposed CEP

The EREG's proposed CEP was submitted for the Commission's consideration as an attachment to the June 2, 1997 motion filed by PG&E, SDG&E, and Edison.⁴ The following description of the proposed CEP comes from the attachment.

The EREG recommends that the Commission authorize a total budget of \$87.5 million for the proposed CEP.⁵ Included within the recommended budget is \$2 million for the Commission's outreach efforts. The total budget was arrived at as a result of an assessment by DDB Needham, its subcontractors, and the EREG board. A copy of the proposed CEP's budget is attached hereto as Appendix A.

The proposed budget is made up of 13 categories. Public relations is allocated \$5.23 million. About two-thirds of this amount (\$3.487 million) represents compensation to the public relations agencies. The remainder represents material costs and reimbursable expenses such as travel.

The second category is mass media, for which \$28.645 million has been allocated. This amount represents the total cost of payment to the media companies only.

The third category is production in the amount of \$4.895 million. This is for paying the various vendors and acting and musical talent that will be involved in producing the different advertising messages. It also includes the cost of duplicating the commercials and ads, and shipping them to the various media vendors for airing or publication.

⁴ The attachment is entitled "Electric Restructuring Education Group (EREG), Customer Education Program (CEP), Proposed Marketing Plan" and is dated May 30, 1997. This attachment was developed by the EREG in collaboration with DDB Needham and its subcontractor agencies.

⁵ According to the proposed CEP at page 30, the proposed budget includes meeting the educational needs of all California customers, including those customers in the franchise areas of the municipally owned utilities. EREG recognizes that in the event it is determined that certain consumers will not be the recipients of CEP materials, some of the budget items will be reduced based on the lower volumes of materials that are required. The \$3 million authorized in D.97-03-069 for the Electric Education Trust was not included in the \$87.5 million.

The fourth category is direct mail in the amount of \$12 million. This includes the cost of lettershop, mailing lists, personalization, production, printing, and postage for roughly 24 million multilingual direct mail pieces, which would consist of two drops of 12 million pieces to 100% of households and small businesses.

The fifth category is consumer telephone response for which \$4 million has been allocated. This amount represents the cost to staff, train, and monitor multilingual operators who will handle calls at a toll-free information call center, as well as the cost of the equipment for this effort.

The sixth category is collateral/fulfillment which is budgeted at \$10.5 million. This is for the cost of producing, printing, duplicating, and mailing of about 3 million multilingual informational videotapes and 6 million multilingual information booklets, as well as the cost of producing and printing brochure holders and displays. These pieces are to be sent to customers who call the toll-free number or who request information through the web site. They will also be distributed to various retail venues for customer use, and be provided in quantities to community-based organizations (CBOs) who will deliver them to customers.

The seventh category is the web site, which is budgeted at \$100,000. This represents the cost of developing, implementing, maintaining and updating the site.

The eighth category is for grass roots community communications and promotions budgeted at \$5 million. This would pay the fees of various organizations and CBOs for their services and out-of-pocket costs to distribute the proposed CEP materials to their constituencies. This amount also includes about \$1 million to cover the costs to develop and produce materials for localized events or retailer tie-ins to support the efforts of the CBOs.

The ninth category is research in the amount of \$1.1 million. This represents the fees paid to various research suppliers to develop and conduct research among the various constituency groups for message development and performance tracking.

The tenth category is agency compensation and reimbursable expenses in the amount of \$12.960 million. This amount is to pay the advertising and promotions

agencies for development and implementation of the joint CEP, and to reimburse them for expenses such as travel and postage.

The eleventh category is \$2 million for the Commission-authorized staff outreach efforts.

The twelfth category is for EREG administration and operations in the amount of \$850,000. This covers the administrative and operations costs incurred by members of the EREG board.

The final category is for CEAP administrative support in the amount of \$200,000. This covers the per diem compensation, travel, and other anticipated costs that the CEAP may encounter.

EREG states that the proposed CEP budget of \$87.5 million is supported by the following points. EREG asserts that the message to be conveyed is more complex than other public education programs. As a result, the information must be delivered in phases, a wide range of communications tools are needed, the EREG's credentials need to be established, and conflicting claims in the marketplace will require substantial communications efforts. EREG also points out that there is a very short time frame in which to deliver the message. EREG also contends that electric restructuring issues are a low-interest, low-involvement category. EREG also states that California's restructuring effort is the largest and most prominent effort in the United States, and that the CEP must be implemented in a way that has an impact.

According to the proposed CEP, implementation of the CEP marketing plan will be managed by the EREG, and its lead advertising agency, DDB Needham. DDB Needham will be responsible for the planning, creative development, and delivery of all communications materials, mass media communications, toll-free call information center management and information fulfillment, public and media relations, grass roots and community outreach identification, and management and customer research required for the successful fulfillment of the EREG program. DDB Needham has subcontracted with the following entities for the following purposes:

Rogers & Associates Los Angeles	Lead Public Relations
Durazo Communications Los Angeles	Hispanic Public Relations
Imada Wong Communications Group San Francisco and Los Angeles	Asian Public Relations/ Asian Advertising
Young Communications Group Los Angeles	African American/ Low-Income Public Relations
Carol H. Williams Advertising Oakland	African American Advertising
Anita Santiago Advertising, Inc. Los Angeles	Hispanic Advertising
Flair Communications Agency, Inc. San Francisco	Promotions/Direct Marketing

The EREG plans to hold bimonthly meetings throughout the course of the EREG program for oversight of DDB Needham's work, and to ensure that there is successful coordination with other Commission restructuring efforts.

As part of the EREG's program strategies, the EREG proposes to assure consumers that the CEP is a credible, neutral, government-supervised source that provides high-quality information. The EREG proposes to provide information in a manner that will simplify the message, and generate greater interest in electric restructuring while at the same time alleviating customer concerns. Consumers will be able to take charge of the learning process by deciding how much they want to learn.

The EREG's marketing strategy sets the tone and direction of the campaign. The marketing strategy specifies to whom the message is directed, the general thrust of the message, the communications tools that are to be used for delivering the messages, and how the effort will be measured. The proposed CEP's marketing strategy consists of four elements: (1) the target audience strategy; (2) the overall creative strategy; (3) the media delivery strategy; and (4) the customer research plan.

The EREG's target audience strategy consists of prioritizing small residential and commercial users, special needs audiences such as low-income, rural, multilingual, and physically challenged customers, and opinion leaders, as the target audiences. These audiences have been targeted by the EREG due to their perceived level of knowledge and ability to access information, their vulnerability to potential marketing abuses, or the roles they play in the community. Large commercial and industrial users, and government and utility employees are not priority targets because of their higher level of knowledge and information access, and because they will be reached by the mass media portion of the CEP.

The second element of EREG's marketing strategy is the overall creative strategy. The creative strategy sets the overall tone and approach to the development of the messages. EREG proposes to finalize the CEP messages after there has been message development research among the target audiences. In communicating the Commission's themes, the messages will be simplified to eliminate confusion and complexity. The EREG proposes to use a toll-free number that customers can call for additional information.

The third element of the EREG's marketing strategy is its media delivery strategy. The EREG believes that no single communications tool can be used to disseminate the proposed CEP messages. Instead, a four-tiered integrated marketing approach must be utilized. The EREG proposes to use mass media as the base of the communications plan. Television, the primary mass media vehicle, would be used to reach millions of "mass" and "special-needs" customers in a timely and cost-efficient manner. The second level of the EREG's integrated marketing approach is to use public relations to build credibility for the EREG messages prior to the start of the mass media campaign, and to leverage that awareness by using mass media to provide in-depth information to a broad range of audiences. The EREG also plans to use the public relations effort to identify relevant neighborhood organizations, and to train, provide resources, and disseminate relevant information through joint efforts with these grassroots organizations.

The third level of the EREG's integrated marketing approach is to use direct marketing. EREG plans to use direct marketing to deliver in-depth information to every California household and small business. Direct marketing allows information to be customized by language or other specific needs, and by the level of information needed.

The fourth level of the EREG's marketing approach is to use events and grassroots activities to deliver information to where people work, live and play.

In order to communicate the CEP messages, EREG proposes to divide its communications program into five phases. The first phase is the use of public relations. The objectives of the public relations effort are to introduce and build credibility for the EREG message "as the trusted, unbiased resource for electric restructuring information prior to the start of the media campaign ." (Proposed CEP, p. 14.) Public relations will also be used to leverage natural media opportunities from the time when new electric service providers (ESPs) can first register until the formal start of the EREG campaign. In addition, public relations will be used as a foundation for mass media, and to continue to build and coordinate activities with other electric restructuring activities.

Phase II consists of introducing the CEP campaign and the toll-free information call center in September of 1997. The objectives of this phase are to introduce and build credibility for the EREG as the trusted and unbiased resource for electric restructuring information, to generate attention and build awareness among the public about the changes taking place in the industry, to introduce the toll-free information call center as the place where customers can call to obtain more information , to utilize EREG board members on an as-needed basis, and continue to build and coordinate activities with other electric restructuring activities.

Phase III consists of distributing base level information during the October to December time frame. The objectives in this phase are to distribute base level information on restructuring to every household and small business in California; build awareness among Californians for the mailings they will receive; focus attention on the changes in the electric industry, which includes the choice of ESPs; continue to build awareness about electric restructuring and of the toll-free information call center;

continue to use community outreach efforts, speakers bureau, and promotional activities; and continue to build and coordinate activities with other electric restructuring activities.

Phase IV consists of information dissemination and functional education during the late December to February 1998 timeframe. The objectives of this phase are to continue to build awareness of the changes, and elaborate on the more functional changes such as the addition of the competitive transition charge (CTC) on customers' bills; continue to build awareness of all the information tools, particularly the toll-free informational call center; and continue to build and coordinate activities with other electric restructuring activities.

Phase V consists of final information and help from March through May of 1998. The objectives of this phase are to continue to build general and functional awareness and disseminate tools to help customers learn about change and choice; to do a final evaluation of the CEP to determine if awareness goals were achieved and to provide a baseline of information for the Electric Education Trust (EET); to continue to build and coordinate activities with other electric restructuring activities; and to build an infrastructure to hand off essential elements of the CEP to the EET to ensure continuity of customer education.

The fourth element of the EREG's marketing strategy is the customer research component. This component would be made up of four types of research activity. The first is message development research to ensure that the CEP messages are clear and have an impact. The second research activity is to do copytesting research to ensure that the creative materials are clear, interesting, appealing, and capture the audience's attention. The third research activity is to do monitoring and adjustment research among the target audiences to measure progress toward the awareness goal, and to make program adjustments if needed. The fourth research activity is to do monitoring and adjustment research among the CBOs to measure progress toward the information distribution goal and to make program adjustments if needed.

The EREG proposes to set communications objectives for information availability, aided awareness, and media reach and frequency. For information

availability, EREG's goal is to reach every electric utility household and small business with basic information, and to make additional information available to them.

EREG states that aided awareness is a function of reach, frequency, actual recall/memory, and consumer cooperation in reporting recall. EREG contends that awareness will always be lower than reach. Based on past awareness studies, EREG proposes to set a goal of 60% aided awareness for each target audience.

For EREG's media reach and frequency, EREG states that those goals will be set as part of the final media plan which utilizes audience measurement data.

The CEP would wind down beginning in March of 1998, and would terminate on May 31, 1998. The EREG envisions that the EET will carry on with these initiatives, and build upon the work of the EREG.

EREG's Response to the Comments on the Proposed CEP

On June 23, 1997, the three utilities filed, on behalf of the EREG, its reply to the comments of others on the June 2, 1997 motion to adopt the proposed CEP. The utilities also filed a response, on behalf of the EREG, to the ACR of June 6, 1997. The comments of the EREG are discussed below in the various issue areas.

CEAP's Review of the Proposed CEP

The CEAP Report concluded that "the proposed CEP manifests serious conceptual flaws that must compel the Commission to reject it unless significantly modified." Among the findings that the CEAP Report makes is that the proposed CEP is fundamentally incomplete. The CEAP states that there are so many unexplained or unsubstantiated elements of the proposed plan that it is impossible to render judgment as to whether the CEP will be effective, and whether it is a wise use of ratepayer money. The CEAP recognizes that the legislative requirement that electric restructuring begin on January 1, 1998 may prevent the Commission from ordering the utilities and the EREG to revise the proposed CEP and resubmit it. The CEAP believes that education efforts can begin immediately, but the proposed CEP must be modified in a number of different areas.

The CEAP asserts that the proposed CEP fails to address a number of key points, expressed as findings in the CEAP Report. First, CEAP contends that the proposed CEP fails to target small businesses and local governments. Small businesses have a greater need for information because they do not have employees or consultants to advise them about their electricity options, and can least afford to make costly mistakes. Small businesses need immediate information so that they can make wise purchasing decisions and protect themselves from abusive marketing practices.

Instead of using other kinds of resources to reach small businesses, the proposed CEP focuses heavily upon mass media. In research that was commissioned by the United States Small Business Administration (SBA), it was found that for information to be effective, it should be relevant to small business owners and managers. Relevant information comes from trade associations and other sources, such as community colleges and CBOs, that owners and managers know and are familiar with. Television and radio advertising are considered by small business owners and managers to be the worst way of obtaining information.

CEAP believes that the proposed CEP fails to address the educational needs of local governments. Employees of the local governments who are in a position to affect electricity purchasing decisions need to be educated as well.

The second finding is that the proposed CEP has overlooked the underserved, vulnerable, and hard-to-reach communities. CEAP points out that low-income communities, monolingual seniors, and immigrant families tend to rely heavily on CBOs and small community organizations for information.

According to the CEAP Report, the EREG states that the subcontractors are not well suited for CBO outreach because they are not geographically diverse, and none of them specialize in the social education that is necessary for the CEP. CEAP contends that very few of these subcontractors appear to have existing relationships with CBOs. CEAP does not believe that the subcontractors “can effectively and credibly connect with the CBO and small business communities at the grassroots level.”

The CEAP Report also states that the CBO outreach effort is underfunded and underutilized. Not only should the funding for the CBO outreach effort be increased,

but the CBOs should be utilized to develop appropriate educational materials, media messages, brochures and pamphlets, special outreach programs, and ways to continue with these programs beyond May 1998.

The third finding is that the proposed CEP's focus for vulnerable, hard-to-reach, and small business customers needs to change from a mass media approach to educating the target audiences where they live, work, and socialize. This necessitates the use of community groups to assist in the education process. The CEAP recommends that the proposed CEP be required to provide the following: (1) the number of hard-to-reach households, categorized by ethnicity, languages spoken at home, geography, and linkages to their community); (2) the community groups to be contacted as potential partners; (3) specific outreach efforts for different special populations; (4) schedules and timelines for contacting these community groups; (5) the use of ethnic media, collateral materials, direct mail and telemarketing to reach and sustain educational programs for these communities beyond May 1998; (6) training and orientation for CBOs and other community organizations; and (7) the means of connecting to the 106 community colleges in California.

The fourth key finding is that the proposed CEP fails to refer to existing, trusted institutions as the source of information. Instead of referring to the Commission as a reliable source of information, the EREG will be promoted as the unbiased resource for electric restructuring information. CEAP also contends that the Commission must be the primary liaison with the legislature, local public agencies, and opinion leaders, instead of the EREG. CEAP asserts that an effective message depends upon information sanctioned by the Commission and distributed by trusted, local institutions.

Another finding of the CEAP Report is that the proposed CEP fails to be responsive to the directives of the Commission. In D.97-03-069, the Commission stated the funding levels should approximate the \$58 million spent for the Caller ID CNEP. Yet, the budget requested in the proposed CEP exceeds that amount by more than \$25

million. The EREG failed to develop a CEP for \$58 million so that a comparison could be made to what is received for \$85.5 million.⁶

The CEAP asserts that certain elements of the proposed CEP may be extravagant and wasteful. CEAP asserts that the agency compensation and reimbursements pool is calculated on a “cost plus” basis. Thus, the larger the budget, the bigger the agency compensation. CEAP recommends that the Commission should reject the cost-plus arrangement and direct the EREG to develop a compensation plan based on the lead agency’s performance with respect to reaching the targeted audience.

CEAP also urges the Commission to evaluate whether monies in excess of \$58 million should be authorized. The Commission should consider the extent to which the marketplace is focusing educational efforts on small customers, the extent to which there is confusion in the marketplace, and the results of the initial measurement and evaluation.

The sixth finding is that the proposed CEP improperly allocates resources by placing too much emphasis on mass media. The proposed CEP appears to be premised on the erroneous assumptions that consumer education should be done by mass media, and that the message is not a simple one. CEAP points out that the mass media campaign of the proposed CEP would take place during a very expensive media market period. In addition, the EREG underestimates the amount of independent mass media marketing that will be done by the ESPs. CEAP further asserts that a simple message can be created and conveyed by less expensive means. Also, the proposed CEP underestimates the value of targeted public education of opinion leaders, and undervalues the amount of free education time that is available through public service announcements and news programming. The CEAP also questions the cost of the proposed Internet web site.

⁶ Apparently, the \$85.5 million excludes the \$2 million for the Commission’s staff outreach efforts.

The seventh finding is that the proposed CEP fails to set reasonable targets for success. The aided awareness target of 60% is too low. CEAP believes that objectives should be more stringent, and include other factors such as the numbers of persons reached, and the degree of customer confusion.

CEAP also points out that the proposed CEP calls for a final evaluation of the CEP, but fails to address what criteria will be used or how it will be used. CEAP also states that a separate entity should be delegated the responsibility of implementing a measurement and evaluation program, and that this should begin as soon as the CEP begins. Since the EET will take over the educational effort in the future, CEAP proposes that the EET oversee the evaluations.

The last finding is that the proposed CEP fails to address in its themes and messages the ideas of the role of alternative power sources and energy conservation.

Based on the CEAP Report's findings, the CEAP makes the following recommendations:

- (1) The EET and the Commission should be closely involved in the design and operation of the call center. The call center, CBO and small business outreach functions should be incorporated into the activities of the Commission and the EET.
- (2) Effective August 1, 1997, all call center, CBO and small business outreach activities be assigned to the EET, and that the budget for these functions be comparable to what is approved for the mass media efforts.
- (3) The EET effort should begin at once, and the first order of business should be to design a call center and to begin educating CBOs and small business stakeholders. CEAP further recommends that the Commission staff begin the process of identifying contractors to interact with the CBOs and the small business communities, and that staff begin to design the request for proposal (RFP) for the EET.
- (4) EREG and DDB Needham should concentrate on mass advertising and message development.
- (5) In order to address the needs of the main target audiences, the budget allocation for CBO outreach and small business activities must be increased.
- (6) The timing of the CEP should be revised to begin immediately, and extend more evenly through the scheduled ending of the EET public education efforts in June of 1999, or beyond, depending on the public awareness of electric restructuring. Since customers are not faced with a deadline of

having to switch providers, there is no need for a heavy media campaign in the Fall of 1997. Instead, the monthly expenditures should be more equalized.

- (7) The EET should be the lead entity for CBO outreach. CEAP recommends that the outreach representatives not be employees of any of the lead agency's subcontractors.
- (8) The CEP needs to provide messages about aggregation, so as to ensure that small commercial and residential customers will have the opportunity to participate and benefit from consumer choice by combining their purchasing power.
- (9) Oversight of the EREG should be enhanced and made more efficient by forming a committee to coordinate and oversee the work of all the relevant electric restructuring groups. The committee would be made up of one representative each from the Energy Division, the EREG, and the CEAP. The CEAP representative could be replaced with someone from the EET, or an additional representative from the EET could be added. It is envisioned that this group would work closely with the assigned Commissioners and their advisors. Such a structure would assure ongoing day-to-day accountability, and that the messages are being developed in a consistent, complementary, and appropriate manner.
- (10) There is a need for an immediate, seamless flow of authoritative information about electric restructuring which needs to be sustainable and coordinated with the EET. To assure continuity of this educational effort, a close liaison needs to be established between the Commission, EREG's lead agent, and the EET.
- (11) Greater coordination between the EREG, the Commission and the CEAP or EET for the education function is needed. Due to the deficient and incomplete CEP, there will be a need for ongoing staff work and input from the CEAP and the EET. Reaction from the lead agency to the critique from these groups must be gauged. Due to the overlapping efforts, there is a need for oversight and coordination between the various groups who face similar budgeting issues, oversight of contractors, and development and delivery of messages. Due to the compressed time line, there is a need for an efficient and streamlined coordination and oversight function.
- (12) The role of the EET should be enhanced rather than reduced. The EET should play a larger role in reaching and influencing residential and small businesses. CEAP believes that the funding levels for the CEP, particularly for the Fall of 1997, should be substantially reduced, and the savings applied to fund the EET's outreach efforts. Such a shift will result in a more cost-effective way of informing the public, particularly residential consumers and small businesses.

- (13) The toll-free call center should be used for two-way communications. The CEAP agrees that the call center is an important element for educating the public about electric restructuring. However, this multilingual call center should be expanded to collect information about potential problems in this developing market. For example, it could collect information about misleading advertising, unacceptable business practices, or other market abuses. It could also be used as a source for customers to learn about potential marketers who serve their community. In addition, the CEAP believes the call center should be linked with the Commission's market monitoring functions, that it should be staffed and designed for a minimum of 5 years, that it should serve as an informational clearinghouse and public education center, and that it should begin prior to September 1997.

The CEAP believes that the call center operators should be trained by the Commission since it possesses the expertise and the resources. Training sessions should include outside representatives so that a broad range of questions can be fielded. The operators will also need back up from designated experts from the Commission or other designated contractors. Calls should also be monitored for accuracy and consistency by contractors with expertise in this area. Prerecorded messages about frequently asked questions would be helpful, but the caller must have the opportunity to go directly to a live operator. Waiting times for a live operator should be minimized to less than one minute.

- (14) Procedures must be put in place to ensure the accuracy and relevancy of the content of all EREG-sponsored materials. A procedure to sign off on the CEP information must be adopted to assure that messages are not contradictory or misleading. The Commission should designate an appropriate lead staff person to review all materials before they are released.
- (15) The CEP should educate the public about alternative power and energy efficiency. CEAP believes that consumers should be given an education on power distribution, transmission, and generation, including natural gas and fossil fuels.
- (16) The CEP should educate the public and not merely provide information. The first phase of the CEP should be very simple, and should direct consumers on how to obtain information about electric restructuring. This phase could be done without buying large amounts of expensive airtime. News coverage and public service announcement time should be adequate substitutes for an expensive mass media campaign.
- (17) The CEP should provide information about the continuation of low-income programs in the restructured market. The Low-Income Governing Board (LIGB) should provide the Commission and the EREG with input regarding this kind of information.

- (18) The CEP needs to respond to the changing market, and the CEP should not try to shape the market.
- (19) The CEP should begin early by informing opinion leaders, stakeholder groups, and elected officials about electric restructuring so that they have the information they need to respond to their constituencies. Close cooperation between the Commission and DDB Needham is needed to coordinate the contacts with opinion leaders.
- (20) The call center must be implemented before September 1997. This is necessary because ESPs are already advertising and approaching potential customers.
- (21) The Commission should require more extensive use of bill inserts rather than direct mail. Bill inserts are more cost-effective, and they reach bill payers at a time when they are most sensitive to the cost of electricity and more interested in potential savings.

Evaluation of the Proposed CEP

In General

In addition to the CEAP's critique of the proposed CEP, a number of different individuals and organizations filed written comments or wrote letters to the Commissioners about the proposed CEP. In the sections which follow, we address the issues raised by the various parties. Since many of the same issues were raised by several different parties, we have tried to avoid listing the position of each party, and instead list the issues and their respective arguments.

We first address some of the broader issues raised by the parties. Some of the parties commented that the proposed CEP lacks the kind of detail that is necessary to approve an education program of this magnitude. They believe the Commission should reject the proposed CEP outright, and that the EREG and the IOUs should be directed to come back with a more detailed plan. Some of the parties suggest that this should be done even if it means delaying the implementation of direct access.

The EREG acknowledges that there is a lack of detail in the proposed CEP. The EREG states that the proposed CEP:

“is a program of methods, directions and resources which will be allocated toward achieving the stated objectives of the CEP. It is not a media plan nor a creative plan nor a research report. It is a marketing plan. While several detailed executional elements have

been developed, they have not yet all been reviewed and approved by EREG for public consumption.” (Response On Behalf Of the EREG, June 23, 1997, p. 2.)

In reviewing the proposed CEP, we had some reservation about the lack of detail in the proposed CEP, especially in light of the size of the proposed CEP budget. However, given the short time frame for the IOUs to appoint the EREG members and organize the EREG, for EREG to select a consultant, and for the consultant to develop a plan, it is somewhat understandable that only a marketing plan was presented, rather than a thorough presentation of all aspects of the proposed CEP.

We have carefully weighed and considered whether the proposed CEP should be rejected, reworked, and returned for another evaluation. We have decided against that option.

AB 1890 directed the Commission to authorize direct transactions between electricity suppliers and end-use customers. Direct transactions are to commence simultaneously with the start of the Independent System Operator (ISO) and the Power Exchange (PX). The start of those two entities is to begin as soon as practicable, but no later than January 1, 1998. (Stats. 1996, ch. 854, Section 10, p. 29; Public Utilities (PU) Code § 365(b).) Although AB 1890 permitted a phase-in schedule to be adopted, we concluded in D.97-05-040 that there were no operational or other technological considerations which necessitate that a phase-in schedule for direct access be adopted. (D.97-05-040, p. 26.) Instead, direct access is to be made available to all on January 1, 1998 for those who want that option. In order to provide a timely customer education program in advance of the implementation of the CTC, the IOUs and the Commission need to forge ahead to devise and implement the CEP. The CEAP Report recognizes this dilemma, and recommends that the proposed CEP be extensively modified if a CEP is to proceed.

We were able to solicit a number of comments on the proposed CEP as a result of the comment process that we established in D.97-03-069. These various comments provide constructive input on what others believe the CEP should contain. We believe that with the framework of the proposed CEP, the comments that we have

received, sufficient safeguards, and further Commission direction, there is sufficient information before us to go ahead with the joint CEP as detailed below.

Some of the parties commented that the pace at which the restructuring of the electricity market is occurring should be slowed down to accommodate the CEP. In addition, some have questioned why the EREG structure was put into place, the board composition of the EREG, and the method in which the advertising agency was selected to devise and implement the CEP on behalf of the IOUs. Those types of issues should have been raised when the Commission set forth those mechanisms in its decisions authorizing the IOUs to devise and implement a joint CEP, and authorizing direct access. We point out that parties have had numerous opportunities to file comments on the draft decisions which resulted in D.97-03-069 and D.97-05-040. In addition, parties had the opportunity to raise legal challenges to these mechanisms by filing for rehearing of the two decisions. No one has done so. We decline in this decision to address issues that should have been raised beforehand.

Scrutiny of the CEP

Some of the parties contend that the proposed CEP should undergo the same scrutiny that was given to the original Caller ID CNEP. That is, there should be careful review by the Commission staff, and neutral outside experts.

In approving the offering of Caller ID service, the Commission in D.92-06-065 (44 CPUC2d 694) required that the utilities first submit a revised CNEP plan to be reviewed by the Commission staff, and if necessary, an independent consultant. (*Id.* at pp. 716, 731.) The original CNEP was found to be inadequate. In rejecting the original CNEP, and requiring the submission of a revised CNEP, the Commission stated that:

“... we choose to outline the principles, goals, central messages, and methods of the kind of utility customer education plan we believe is essential to fully inform California citizens about the implications of these new services and enable them to protect their rights. We then direct the applicants to file and serve revised plans fashioned consistent with this opinion to the Commission. CACD shall review each plan, in consultation with the Public Advisor, and, if necessary an independent consultant, and shall not recommend approval to the Commission unless it finds that the plan will likely result in the applicant’s notifying all Californians of the

nature of the service, and the means by which they can protect their privacy.” (44 CPUC2d at p. 716, fn. omitted.)

We are faced with a similar situation with the CEP for direct access. Unlike the Caller ID situation, we previously gave the utilities some direction on what the CEP should contain in D.97-03-069. The proposed CEP attempted to respond to those guidelines. Although the proposed CEP lacks detail, a framework for accomplishing the CEP is in place. Together with the critiques of the proposed CEP by other parties, we plan to go ahead with a joint CEP, but according to the terms and conditions expressed in this decision. Like the Caller ID CNEP, we elaborate further in this decision on the principles, goals, central messages, and methods that the CEP must adhere to in light of the comments that we have received. Before any CEP messages are disseminated to the public, they shall be reviewed and approved by the Commission as required by Section 392(d).

Justification for the Funding Request

The EREG, acting as an advisory body on behalf of PG&E, SDG&E, and Edison, requests that the proposed CEP be funded at \$87.5 million. Of the four utilities, only SDG&E expressed concern over the proposed level of funding. SDG&E states that it will be working with the EREG to find ways to achieve the Commission’s objectives for the CEP at a cost that is closer to the range of funding expressed in D.97-03-069. Several other commenting parties have also questioned the efficacy of funding the joint proposed CEP at \$87.5 million given the lack of support and detail in the proposed CEP.

Others believe that the proposed budget amount is appropriate because of the large target audience, and the segmented and diverse audiences that need to be educated. In addition, the concept of the right to choose an electric provider is a new and complicated message to convey. The time frame in which to educate consumers is extremely short, and the category is of low-interest to consumers.

Proponents of the proposed CEP budget argue that the requested budget is comparable to the Partnership for a Drug Free America and the Caller ID campaigns. If the proposed CEP is not funded at the \$87.5 million level, some believe that consumers

may be harmed or become confused if a comprehensive education program is not put in place. They assert that the cost per household of \$5.47 for each of the 16 million households in California is cost-efficient, and does not seem unreasonable given the importance of this issue.

Opponents of the \$87.5 million budget request contend that the amount is excessive, or that there is no empirical basis or other justification for the \$87.5 million budget. They point out that the entire California reelection campaign for the Governor's office cost only \$27.8 million. They do not believe that \$87.5 million is needed because the market participants themselves will engage in their own advertising as well. Since market participants are willing to pay to educate the public about electric restructuring, there is no need to spend ratepayer money on such a large scale. Instead, the CEP effort should focus its attention on providing materials and information to specific markets, and ensuring that the toll-free call centers are fully staffed by informed and helpful staff.

The opponents of the proposed CEP request also contend that the EREG must first specify the educational messages to be developed before the strategies, tactics, and budget for conveying these messages are finalized. Also, an array of program plans utilizing different levels of funding should be considered. They also point out that it was not surprising that the marketing associations, in response to the questions asked of them in the ACR of June 6, 1997, endorsed the proposed CEP, since those entities have an interest in generating and sustaining a large marketing effort. The opponents assert that the comments of the marketing associations are not based on any particular knowledge of the issues, nor do those comments consider that other education efforts are being and will be conducted by others.

Discussion

Our primary concern with the amount of requested funding is that ratepayers will bear the cost of the CEP. We concluded in D.97-03-069 at page 33 that the costs of the utilities' expenditures related to the joint CEP efforts are recoverable from their customers pursuant to Section 376 because those costs are being incurred to

implement direct access.⁷ Since ratepayer money is involved, we must ensure that the requested budget is justified.

Some of the parties argue that the proposed CEP should be rejected because the EREG has failed to include sufficient detail to justify the \$87.5 million. As we noted above, and as the EREG itself has conceded, the proposed CEP lacks the kind of operational details one would expect to see. However, the EREG has provided sufficient detail as to the resources that the EREG and DDB Needham have arranged to carry out the CEP on behalf of the utilities. The proposed CEP also identifies to whom the CEP messages will be directed, the general topics to be covered by the messages, and how the CEP effort will be measured. In addition, the proposed CEP discusses the types of communications tools it will use to convey the messages, and provides an overall budget for the CEP effort. All of this information, together with the comments of the various parties, provides us with the information necessary to decide what the utilities' joint CEP effort should consist of.

We stated in D.97-03-069 that the overall budget for the joint CEP effort should be in the neighborhood of what was spent on the Caller ID CNEP. Approximately \$58 million was spent statewide for that effort. A number of the commenting parties are of the belief that the joint CEP can be done for \$58 million or less. They point out as examples the other educational campaigns and other ad campaigns in this state which have cost less than what is being requested here.

⁷ Section 376 provides: "To the extent that the costs of programs to accommodate implementation of direct access, the Power Exchange, and the Independent System Operator, that have been funded by an electrical corporation and have been found by the commission or the Federal Energy Regulatory Commission to be recoverable from the utility's customers, reduce an electrical corporation's opportunity to recover its utility generation-related plant and regulatory assets by the end of the year 2001, the electrical corporation may recover unrecovered utility generation-related plant and regulatory assets after December 31, 2001, in an amount equal to the utility's cost of commission-approved or Federal Energy Regulatory Commission approved restructuring-related implementation programs. An electrical corporation's ability to collect the amounts from retail customers after the year 2001 shall be reduced to the extent the Independent System Operator or the Power Exchange reimburses the electrical corporation for the costs of any of these programs."

There are two important differences between the proposed CEP and the other advertising campaigns. First, the most important concept is that the purpose of direct access is to offer all customers a choice in selecting their electric provider. This concept should control the direction that the joint CEP should take.

Direct access will only be successful if sufficient numbers of electric customers participate in this new market structure. As we noted in D.97-03-069, industrial and large commercial customers are more likely to understand the ramifications of what electric restructuring means to their companies' bottom line. They have the time and resources to understand what is going on. As a result, these kinds of customers are likely to be the first to sign up for direct access so that they can strive to lower their energy costs. As evidenced by recent ads in the Wall Street Journal and other newspapers, new entrants are already seeking to capture a share of this market.

In order for residential and small to medium commercial customers to benefit, these customers need to be informed about what electric restructuring means to them. Once customers understand what the restructured electricity market means to them and their pocketbooks, these customers must overcome the existing "share of mind" of the incumbent utilities. We refer to share of mind as the ingrained obstacle that people must overcome in order to entertain the notion of switching from the existing monopoly provider of electricity to another provider. Due to the previous electric monopoly structure, most consumers are used to and comfortable with the idea of receiving electricity from the incumbent utility. It is difficult to break out from that mold as we have previously experienced in the long distance telephone market. When the long distance market was opened to competition, it took many years before competitors could capture a significant share of the long distance telecommunications market. We are likely to face that same hurdle with electric restructuring unless we do something about it.

In order for residential and smaller businesses to overcome this share of mind, the CEP must educate these customers about what restructuring means to them, and what choices are available to them. Only through highly visible messages and constant reinforcement will consumers have the opportunity to enhance their

awareness of the CEP and to obtain the information they need to understand the implications of direct access. Once customers are educated, the power of this information will allow these customers to overcome their incumbent utility share of mind and make an informed choice among all competing suppliers.

If we fail to adequately educate customers, that will not bode well for the future of a competitive market. The lower the number of customers who participate in direct access, the weaker the competitive generation market is likely to be. This is contrary to what we are trying to achieve. We agree with EREG that we should consider the cost of failure versus the cost of the CEP. When viewed in the context of what direct access means in terms of lower electric rates and customer choice, we need to ensure that the CEP is successful from the outset.

The second important difference between the CEP and the other cited advertising campaigns is that the CEP must provide customers with some understanding of the reasons why they might want to switch electric providers, and what their options are. The campaigns against drug use, teenage pregnancy, and smoking are simple messages to get across to audiences. The target audience does not have to understand the underlying reasons behind the ads since the ads show the viewer the consequences resulting from that kind of behavior.

The Caller ID CNEP is similar to what we are trying to do here as far as providing consumers with background information. However, the Caller ID effort differs significantly from the CEP. Electric restructuring represents a change in how electricity is regulated, and how the utilities and their competitors will do business. Caller ID, on the other hand, was a preexisting enhanced telephone service offered in other states. Caller ID encountered resistance in California because of caller privacy concerns. Unlike Caller ID, the CEP must inform consumers about what direct access is, explain the role of the new market entrants and of the utility, and clearly state what choices are available to consumers. Development and dissemination of educational materials will be needed so that the public can be informed of these changes.

The CEP also involves different target audiences. The concerns affecting residential customers are different from those of small business and small agricultural

customers. Different kinds of educational materials will be needed depending on the customer. In Caller ID, the issue of whether customers wanted their numbers blocked affected everyone in the state in the same manner.

The CEP also has the challenge of motivating people to learn about electric restructuring, educating the public about what it needs to know, and overcoming incumbent utility inertia.

Turning now to the requested budget amount, we have examined the various components which make up the budget request. As discussed later, we believe that some of the budget allocations need to be reduced, while the allocation for outreach by the CBOs should be increased. Given the importance of direct access, and the effort needed to cause consumers to take notice of the fact that they can select the provider of their choice, the overall sum of \$89,294,580 is approved for the joint CEP effort as detailed below.

Longevity of the CEP

According to D.97-03-069, the CEP is to begin no later than September 1, 1997, and is to end on May 31, 1998.

Some of the commenting parties have suggested that the life of the CEP may be too short to adequately reach and educate low-income households. They contend that the competitive market is unlikely to develop overnight, and thus there is no need for an immediate, all-out education effort such as the one the proposed CEP envisions. Under the current timeline, the bulk of the campaign will be over by January 1998, just when direct access is scheduled to begin. They believe that the educational effort will be more beneficial when the market is actively developing and marketers are soliciting customers. Instead of an intensive campaign at the outset, the resources allocated for the CEP should be spread over a longer period of time. Some have suggested that the CEP be combined with other resources, such as the LIGB, or incorporated into the activities of the EET. The LIGB's outreach and education activities are designed to identify and communicate with the same hard-to-reach groups that the CEP is targeting. The parties believe that combining the resources of the EREG and the LIGB will help both groups to achieve their respective objectives.

Others believe that it is premature for the Commission to decide whether the CEP should be extended. In the event the EREG is extended, the proposed budget should be reduced to reflect any proposed extension.

EREG proposes that the Commission extend the life of the EREG and the CEAP from May 31, 1998 to August 31, 1998, and that the current timeline for the creation of the EET be put on hold. EREG proposes to adjust the timeline of its plan to accommodate this schedule, and would do so within the proposed \$87.5 million budget. By doing so, EREG states that the CEP can take advantage of the sensitivity to high summer cooling bills to emphasize its messages about customer choice, cost, and competition.

EREG proposes to conduct research during the second quarter of 1998 to evaluate the response and effectiveness of the CEP, and to determine what needs to be done in the short term and long term with respect to consumer education and protection. EREG also recommends that a public symposium be held in April 1998 to present the results of its research, and recommendations for EREG's education plan through August 31, 1998. It could also provide a forum to discuss the ongoing role of the Commission's Consumer Services Division, to discuss the transition issues of handing over the educational effort from EREG to the EET, and to discuss the role, funding, and duration of the EET.

Discussion

We do not favor lengthening the life of the CEP so that there is a gradual release of information over time. AB 1890 contemplates that a CEP be implemented by the utilities before the CTC is implemented. Already, we are beginning to see and hear a number of different ads about ESPs and metering companies. It is likely that this advertising will increase during the fall of 1997 and continue into the first quarter of 1998. In order to ensure that customers have the information necessary to help them make appropriate choices regarding their electric service, the joint CEP needs to be implemented right away. Therefore, we will abide by our directive in D.97-03-069 that the utilities participating in the joint CEP shall begin to implement the CEP no later

than September 1, 1997, and that it will continue until May 31, 1998. The joint CEP schedule and budget will need to reflect this.

EREG contends that by extending the life of the joint CEP, some of the CEP messages can take advantage of the high summer cooling bills to emphasize the electric restructuring themes and messages. We believe that this is an issue that can be included as an example of what kind of impact direct access can have, and that it can be incorporated as part of the CEP materials at the outset. However, there is no need to extend the CEP so that the CEP messages about lower electric rates appear at the same time customers experience higher cooling bills during the summer. In marketing, there is usually some lag before customers react to the message. If necessary, the continuing educational efforts, as discussed below, could address the high summer cooling bills as well.

We recognize the continuing need for education about electric restructuring. As we stated in D.97-03-069, there are likely to be many residential and small business customers who will need some form of continuing education after direct access begins. Customers may prefer to wait on the sidelines before deciding to seek out a different electric provider. Although it is our plan to terminate the utilities' joint CEP effort as of May 31, 1998, educational efforts will continue through the EET and the Commission's outreach efforts.

We had originally thought that the EET should supplement the CEP efforts by starting up and taking over the educational efforts after the CEP activities had tapered off. After reading and listening to the comments of the parties, we believe that there is merit to starting the EET up earlier to take charge and to design and manage a CBO-based educational outreach effort at the outset. We also believe that the EREG should cease its oversight function of devising and implementing a CEP on behalf of the utilities. Our reasoning for these changes is discussed later in this decision.

We shall direct the utilities to coordinate their joint CEP efforts with those of the LIGB.

EREG's proposal for a public symposium should not be adopted. Transition and administrative issues, such as whether the educational effort should

continue, deciding who should take over what responsibilities, and what the ongoing role of the Consumer Services Division and the CEAP should be, are issues that the Commission should decide. These are also the kinds of issues that parties could file comments on if the Commission decides that additional input is needed. Should the Commission decide that a public hearing is needed, the Commission could arrange it. The CEP should be revised consistent with the above determinations.

Underlying Assumptions

Before discussing some of the individual components which make up a large part of the proposed CEP budget, we first address some of the assumptions upon which the proposed CEP is based. These assumptions are that the electricity restructuring issue is a low-interest and low involvement item, that the aided awareness goal for the proposed CEP should be set at 60%, and that the messages to be conveyed are complex and intimidating. These assumptions comprise some of the reasons why a budget of \$87.5 million is being requested.

Low-Interest, Low-Involvement Assertion

The EREG asserts that the issue of electric restructuring is a low-interest, low-involvement category. Its conclusion is based on research studies showing that there is apathy and indecision among users in pilot programs, and that electricity deregulation is obscure, confusing, and not particularly interesting to consumers. EREG believes that motivating customers to understand more about the industry will be a significant challenge. The budget needs to reflect the challenge of attempting to reach those customers.

Some of the commenting parties contend that the proposed CEP provides no justification for its assumption that electricity restructuring is a low-interest, low-involvement category. Instead, one's electricity bill may be an item of high interest especially if customers learn that their lower monthly costs may be reduced as a result of electric restructuring. This will also motivate consumers to learn more about electric restructuring. Contrary to the proposed CEP's assertion, they believe that many consumers care about public policy and consumer education and protection issues.

Discussion

The proposed CEP seems to assume that since electricity is a low-interest, low-involvement issue, that more money is needed in order to get people to pay attention to electric restructuring. We are not entirely convinced by this rationale.

The debate over whether electricity is a high-interest or low-interest topic is a function of the past, present and future. In the past, electricity was provided by the monopoly provider. Consumers only had one provider. Generally speaking, in that regulatory environment, customers became interested in electric issues only when it came time to pay the electricity bill, or if an outage occurred. At the present time, consumers are being exposed to more stories about electric restructuring, and are starting to see the first wave of advertising by other providers. Undoubtedly, this will heighten the interest of consumers. As for the future, the CEP and other marketing efforts may change the habits of consumers to view electricity issues as a high-interest, high-involvement issue. Or consumers may simply absorb the information, and decide to remain with the incumbent provider.

The CEP's purpose is not to make the subject matter of electricity more appealing to consumers. Rather, the goals of the CEP are to educate consumers about what electricity restructuring means to them, and what choices and options they have in the new regulatory environment. These are the goals that we are trying to meet. In order to make people aware of these goals, we need to authorize sufficient monies so that this educational effort can take place.

Aided Awareness Objective

The proposed CEP would establish a goal of 60% aided awareness for each target group. As we understand it, aided awareness represents the ability of customers to recall certain pieces of information that they were exposed to when prompted or coached by an interviewer. (See D.96-04-043, fn. 10.) The higher the percentage means that more people were able to remember the messages being communicated.

The proposed CEP incorporates ongoing monitoring and adjustment in its research budget. It is proposed that the monitoring and adjustment research be done by the lead agency or one of its subcontractors.

Some of the commenting parties assert that for a proposed budget of this size, the aided awareness is much too low. If this aided awareness target was adopted, it would mean that at least four out of every ten consumers lack even a minimal amount of awareness. They argue that the 60% aided awareness translates to an unaided awareness of 40% to 50%. They also contend that in the Caller ID education program, the Commission established an aided awareness goal of 70%, and 60% for volunteered understanding, and that a similar goal should be adopted here.⁸ They argue that spending \$87.5 million to educate only 60% of the population is not very cost-effective, especially when the CEP is intended to inform everyone of the changes taking place.

The Commission's Office of Ratepayer Advocates (ORA) agrees that the monitoring and evaluation should be performed, but it should not be done by the entity conducting the marketing efforts. ORA recommends that the CEAP be designated as the entity which will oversee the monitoring and evaluation of the CEP. The CEAP should be allowed to determine the vendor and the necessary funding required. ORA contends that allowing CEAP to conduct this function is consistent with the CEAP's responsibility to evaluate and advise the Commission on the CEP. ORA also recommends that the funding of the CEP be done in installments, rather than authorizing all the monies in one massive budget. Additional funding should not be authorized until the CEP's performance has been measured and evaluated by this independent third party.

With respect to the criticism that the aided awareness goal is only 60%, EREG asserts that the awareness that is reported in surveys is lower than the actual

⁸ Volunteered understanding or awareness is the ability of the customer to recall information without any coaching by the interviewer. (D.96-04-043, fn. 10.)

audience that is reached. Some audiences may be expected to exceed these levels because they may have a higher level of interest, preexisting knowledge, or other advantages. EREG believes that the responsible approach is to set an equal goal for each audience.

Although EREG states “Handing off the monitoring to a third party would not allow EREG the time and flexibility required to make critical adjustments to the plan,” EREG plans to retain an independent third party research subcontractor to set up, conduct and tabulate the tracking research, and then report the results to EREG, DDB Needham, and its subcontractors. EREG believes that this approach assures that EREG will receive the quality, expertise, and timeliness needed to make any adjustments to the CEP based on the tracking results.

Discussion

Some of the parties contend that the Commission should adopt an aided awareness goal of 70% for the CEP instead of the 60% that is contained in the proposed CEP. A 70% goal would be the same percentage that was adopted for the Caller ID educational efforts of Pacific Bell and the other local exchange carriers. Opponents of the 60% aided awareness goal make the argument that because more money is being spent on the CEP effort, the aided awareness goal should be as high as the aided awareness goal for Caller ID. We do not accept that argument. As we stated above, we believe that there are significant differences between the Caller ID education effort and the CEP. Instead of attempting to educate the public on one discrete issue, as was the situation in Caller ID, here we need to educate about the what the new industry structure means to customers and what consumers need to know in order to make informed choices. One would expect, given the differences between the two efforts, and the amount of information that needs to be absorbed, aided awareness for the CEP is likely to be less.

We agree with EREG’s response that aided awareness is a function of reach, frequency, actual recall and memory, and consumer cooperation in reporting recall/memory to the researcher. In order for aided awareness to occur, sufficient monies need to be allocated so that the messages can reach, be heard, and remembered

by all the target audiences. However, given the differences in the subject matter being communicated, spending more on the CEP than on Caller ID does not necessarily mean that the aided awareness target should go up as a result.

The EREG points out that the aided awareness goal is a minimum target. Judging from the comments of the other parties, a 60% aided awareness goal is somewhat conservative, especially when viewed in light of the total budget. We will adopt the 60% aided awareness goal, although we believe that the utilities and DDB Needham should strive for a much higher goal. Some of the parties suggest the Commission should tie DDB Needham's compensation to achievement of the goal. Although we will not require that, we do expect the utilities to ensure that the CEP meets, at a minimum, the 60% goal for the total of all target audiences. This expectation is reasonable given the Legislature's intent that "electricity consumers be provided with sufficient and reliable information to be able to compare and select among products and services provided in the electricity market." (PU Code Section 392(b).)

Failure to achieve this minimum and modest goal could cause us to disallow recovery of a portion of the monies that are being tracked in the memorandum accounts for the CEP. If the aggregate aided awareness number for all target audiences is below 60%, we propose for every percentage point below the target of 60%, a three percentage point disallowance of the total CEP expenditures for the "Utilities' Customer Education Program" shown in the Revised Budget Summary in the conclusion portion of this decision, be made. Thus, for example, if the aggregate aided awareness result was only 58%, a 6% disallowance of the total spent in the "Utilities' Customer Education Program" amount would apply.⁹ The use of the term "target audiences" for the purpose of this mechanism shall mean the total of all residential customers, all small business customers, all special-needs customers, and all opinion leaders, as described at pages 10 and 11 of the proposed CEP.

⁹ For example, if the total spent in the Utilities' Customer Education Program was \$65 million, and the aided awareness result for all target audiences was only 58%, a \$3.9 million disallowance should apply.

This potential disallowance is justified because (1) the utilities are obligated to provide their electricity customers with sufficient and reliable information pursuant to Section 392(b) and (d); (2) since ratepayer monies are being used to fund the CEP, the utilities should be held accountable for how effectively the money is being used, and the potential disallowance should cause the utilities, and in turn, the lead agency, to ensure that the CEP is a success; and (3) the aided awareness goal of only 60%.

We believe that there should be two separate monitoring studies done as part of the CEP. The first is what is proposed by the EREG in the proposed CEP. The utilities, through the lead agency or one of its subcontractors, would conduct the monitoring and adjustment research among the target audiences to measure progress toward the awareness goal, and to make program adjustments, if needed, as a result of the research. This would also be done at the conclusion of the CEP. The funding for these research activities are already included in the “Research” budget category of Appendix A.

The second monitoring study that we will require is similar to the first monitoring study. The second study ensures that there is an independent and objective verification of whether the aided awareness goal of the CEP is met at the conclusion of the CEP. Instead of having the CEAP manage the monitoring study as recommended by ORA, the Commission’s Consumer Services Division shall be directed to manage and oversee this monitoring study. We will include \$250,000 in the total CEP budget for this purpose.¹⁰ The Consumer Services Division should coordinate their monitoring study with the IOUs and DDB Needham to ensure that both studies are based on the same type of criteria and methods so that the study by DDB Needham can be evaluated and analyzed on an equal footing with the study to be overseen by the Consumer Services Division. The Consumer Services Division is authorized to retain a research firm to conduct this separate monitoring study, which

¹⁰ This is identified in the Revised Budget Summary as “CSD Research.”

should be conducted no earlier than the final stages of the CEP. The monies designated for this separate monitoring study shall be designated for the use of the Consumer Services Division only.

We do not adopt ORA's recommendation that the monies for the CEP effort be distributed in increments based on the research results. Instead, we shall leave it to the discretion and management of the utilities to decide what needs to be done if the CEP effort falls below the aided awareness goal during the implementation of the CEP.

The monitoring research results of the post-CEP aided awareness that the lead agency or its subcontractors conduct shall be filed by the IOUs at the Docket Office within 60 days of the completion of the joint CEP efforts, and served on the service list to this proceeding. Similarly, the research results from the Consumer Services Division's monitoring of the post-CEP aided awareness shall be filed and served within 60 days of the completion of the CEP efforts. Both research studies shall include a detailed explanation of the methodology used in their research. Should either or both of the research results regarding the aided awareness goal at the conclusion of the CEP fall below the aided awareness goal of 60% for all target audiences, an assigned Commissioners' ruling or ALJ ruling will issue detailing the procedures to address this shortfall.

Complex Messages

The proposed CEP asserts that electric restructuring is a complex message to communicate, and that it can be intimidating for consumers to understand. Some of the commenting parties contend that the EREG has provided no justification for this assertion.

EREG contends that its conclusion is based on: (1) a review of consumer research from restructuring pilot programs conducted throughout the United States which consistently demonstrated consumer confusion and frustration, and which underscored the need for sufficient user education; and (2) the experience of DDB Needham.

Discussion

We are not persuaded that the CEP messages will be a complex message to communicate. The idea that the CEP must condense the direct access decision into a few simple and easy to understand messages, pamphlets, and other educational materials, appears to be quite a challenge. However, we are persuaded by some of the commenting parties that consumers need only to understand the answers to the two following questions: what direct access means to them; and what choices are available to them.¹¹ There is no need to create CEP materials which provide lengthy and complicated answers to these two questions. Instead, simplified answers to these questions can be developed.

We do not agree with the argument that more money is needed for the CEP because the messages are so complex. The question is not whether the complexity of the messages requires such a large budget, but rather what kind of effort is needed to educate the public and to overcome the share of mind of the incumbent utility. As mentioned earlier, we need to acclimatize consumers to the idea that they can now choose their own electric provider. Not only must the CEP get people involved in thinking and reading up on this subject, but the incumbent utility's share of mind must be overcome as well.

Research

The proposed CEP plans to conduct four key types of research activity. Message development research would be used to ensure that the CEP messages are clear and have an impact. Copytesting research is to ensure that the creative materials are clear, interesting, and appealing to the audience. The proposed CEP also calls for monitoring and adjustment research. This would be done in two parts. First, research would be done among the target audiences to measure progress toward the awareness goal, and to make program adjustments as needed. The second part is to do monitoring and

¹¹ One of the topics that needs to be included within the answer to the question of what direct access means to consumers is an explanation of the CTC charge.

adjustment research among the CBOs to measure progress toward the proposed CEP's information distribution goal, and to make any necessary adjustments.

Some of the commenting parties stated that the message development research contained in the proposed CEP will play an important role in developing the messages for television commercials and for the various target audiences. The copytesting research will be needed for creating direct mail and public relations releases, and for developing the collateral and material. The monitoring and adjustment research will help ensure the CEP's success.

Other parties criticize the proposed CEP as lacking citations or references to any marketing research conducted in preparing the CEP. Some feel that if the CEP is going to be spending money on research for the public education effort, the results of such research should be made available to the public. In addition, interested parties should be permitted to observe the research activities, such as focus groups.

EREG responded that several sources of research were used to develop the plan, and that additional research is planned as well. As noted in the proposed CEP, the starting point came from several small scale pilot programs of electric restructuring that took place in New Hampshire, Massachusetts, and Illinois. Based on this information, the proposed CEP concluded that: most small customers do not fully understand the concept of retail access so relevant customer education is needed; customer education efforts must be of sufficient duration and possess enough depth so as to allow customers every opportunity to learn; it is harder to stimulate residential understanding, and poor customer education fails to generate significant residential customer participation; and customers need to know that it is acceptable not to do anything.

Discussion

We agree with the critics of the proposed CEP that specific California research was not included as part of the proposed CEP. Instead, the research that EREG was relying on appears to have come from those states which have conducted pilot programs into electric restructuring.

We are disappointed that the EREG did not include some of its preliminary research in the proposed CEP. We previously authorized up to \$20 million so that the IOUs and the EREG could expedite the schedule by doing some of the preliminary work such as the research. Although we appreciate the reluctance on the part of EREG and DDB Needham to forge ahead before the Commission gives its final authorization, our expectation is that the CEP shall start beginning in September of 1997, which means that the research needs to be well on its way to completion.

Before the CEP is launched in California, we fully expect the utilities and DDB Needham to aggressively conduct the customer research necessary to develop and implement the messages.¹² As we stated in D.97-03-069 at page 22:

“The CEP should be designed at the outset to target those classes of customers who are the least knowledgeable about the changes in the electric industry. By recognizing where the efforts need to be focused, targeting and educating these customer classes at the outset will provide them with the necessary information to help them make choices as to their electric needs.”

The focused and targeted educational effort can only come about if the necessary research is done beforehand. As the EREG acknowledges in the proposed CEP, the purpose of the message development research is to help shape and refine the most appropriate campaign theme, and to gauge consumer reaction to a wide variety of messages.

With regard to access to the research data, we shall permit other interested parties to obtain any non-proprietary research information generated by DDB Needham or any of its subcontractors for the CEP, which DDB Needham transmits to the IOUs. Our reasoning for permitting this is that the utilities may receive research information from DDB Needham as part of the development of the joint CEP. If the utilities have access to this kind of research data, potential competitors of the

¹² According to the June 10 to July 10, 1997 EREG Monthly Report, it appears that focus group research for message development started on July 14, 1997.

utilities should have access to the same kind of information as well. If proprietary research data is released by DDB Needham to the IOUs in connection with the CEP, other interested parties should be entitled to that information as well under the same terms and conditions of use that DDB Needham may have imposed on the IOUs. With respect to allowing others to observe the research focus groups, we shall permit that to occur only if any utility representative is allowed to observe.

Any post-measurement study contemplated as part of the proposed CEP should be minimized. In D.97-03-069 at page 22, we stated:

“The EREG should not place much emphasis on an after-the-fact analysis. Although a measurement study may be useful for assessing whether the CEP accomplished its goals, and for laying the groundwork for the work to be done in the education trust, a repeat of an education program for electric industry restructuring is unlikely. An evaluation mechanism that balances these concerns should be part of the CEP design.”

We continue to adhere to that belief. A post-measurement study should be done to assess how successful the CEP was. It should measure, among other things, the aided awareness target, consumers’ understanding of the available choices, how to go about selecting an electricity provider, and how to recognize potential marketing abuses.¹³ In developing such a study, the utilities should keep in mind that the results may be of benefit for the development of the EET. The utilities, however, should not spend significant sums to conduct an exhaustive post-measurement study of the entire CEP since a repeat of such a program will not be needed.

The CEP Messages and Themes

The proposed CEP plans to provide consumers with enough reliable information to enable each consumer to compare and select among products and services. The messages and themes that the EREG plans to use are the nine listed at page 27 of

¹³ This post-measurement study includes the IOUs’ monitoring study of the aided awareness goal, as discussed earlier.

D.97-03-069, as well as the theme that the CEP effort must be free of bias. In addition, the EREG plans to maximize customer outreach by constructing the proposed CEP as a multilingual effort.

In commenting on the messages and themes to be conveyed, some of the parties emphasized the need to provide one clear and simple, relevant message. Others emphasize the importance of keeping the messages as accurate and balanced as possible, and free of bias. Also, care must be taken not to overemphasize certain points, such as the consumer is free to remain with the existing electric provider, or that your energy rate may drop if you have a real time meter and you are buying power based on the PX price. In the latter situation, some contend that unless your actual usage is reduced as a result of information from the meter, any benefits during the transition period from mere load shifting in response to the PX price will be negated by the increase in the CTC. By crafting the messages in an accurate, balanced, and unbiased manner, consumers will have the ability to make intelligent choices that are free of any bias.

Other parties commented on the proposed CEP's failure to include as part of its messages and themes the topics of aggregation, how to evaluate the marketing of a claim of "green power" or a discussion about renewable resources, and information about energy efficiency.

Some of the commenting parties argue that the EREG composition makes it impossible for the messages to be unbiased. They contend that it appears the Commission has delegated consumer protection to the IOUs and to the EREG. They argue that half the members of EREG represent special interests, and lack any representatives from small businesses, seniors, farms, or consumer cooperatives. In addition, they assert that only two members of the EREG, other than the IOU representatives, have any marketing-related experience.

Others commented that some members of the EREG may have an advantage over other ESPs because of their participation on the EREG. This advantage arises because of the advance access to the market research and marketing materials prepared for the EREG, and because of the use of EREG board members in the publicity

campaign for the CEP. Some have suggested that all market research and marketing materials be withheld from the marketers on the EREG in advance of their availability to the public. In the alternative, if such material is first presented to the EREG board members at the public EREG meetings with sufficient advance notice to the public, they would have no concern.

Some of the parties are of the opinion that the proposed CEP should not build excitement for or try to sell consumers on the idea that deregulation is good for consumers. They do not believe that is an appropriate message for the CEP. Instead of a propaganda blitz that tries to encourage consumers to embrace the new marketplace, they believe that consumers should be supplied with the information they need.

EREG agrees that the CEP materials, or in events where EREG participates, should not favor or showcase any service provider. EREG is committed to providing an unbiased message.

EREG responded that its meetings are open to the public, and its reports to the board are available to attendees. EREG will ensure that it fully discloses the matters being discussed and the reports being presented.

EREG agrees that the messages must be carefully crafted, and that the composition of the EREG was formulated to assure representation of broad stakeholder interests. Although some of the parties commented that they would like to provide their input before the CEP messages are implemented, EREG responded that given the deadlines for implementation, it will be impossible to circulate and invite parties to comment on all of the EREG products.

The EREG acknowledges the importance of educating customers about renewable generation resources and energy efficiency. EREG plans to integrate these subjects into the CEP effort by having the California Energy Commission (CEC) staff brief the full EREG board on these issues at one of its July 1997 meetings; participate in discussions of message content at the EREG meetings; consult with DDB Needham staff and the EREG members to provide background information and to assist in message development; and review CEP materials on these subjects before they are finalized.

Discussion

We disagree with the critics of the proposed CEP who assert that the Commission has delegated its responsibility to approve the CEP to the EREG and the IOUs. It is the utilities' responsibility under D.97-03-069 to devise and implement a joint CEP. D.97-03-069 allowed the utilities to form the EREG, if they were so inclined, to assist them in ensuring that the CEP messages are neutral and unbiased. The utilities opted to do so. Whatever messages and advertisements that the EREG and DDB Needham develop for the benefit of the utilities, those messages and advertisements must still be approved by the Commission. Thus, contrary to the assertions of others, the Commission has not delegated its responsibility to approve the CEP.

Regarding the contention that the EREG lacks input from small business and cooperatives, the EREG has at least one member that owns its own business, and another member who is involved in consumer cooperatives. With respect to some of the other criticisms regarding the composition of the EREG and the process of establishing the EREG, those types of complaints should have been raised earlier, as noted above.

As for the concern that some members of the EREG may gain an advantage over a competitor because of their position on the EREG, we have two responses. First, the meetings of the EREG are open to the public so any marketer can observe what the EREG is doing. Second, we propose that the management of the CEP revert back to the IOUs. That should eliminate potential marketing advantages.

Many of the concerns expressed in this section about the content and neutrality of the messages have already been addressed through the broad cross section of representatives who serve on the EREG. In addition, the research and testing that goes into the development of the CEP messages will help ensure that the concerns expressed by the parties do not find their way into the message itself. Also, the review process of the Commission, as explained below, will assist in catching inaccurate or biased messages.

We agree with the comments that suggest the messages must remain as neutral and unbiased as possible. For example, in crafting the message that a consumer does not have to do anything, and is free to remain with the existing electric provider,

special care must be taken to ensure that this choice is not presented in such a way that discourages consumers from selecting a provider other than the incumbent. That is, consumers must be made aware of all the choices that they have, that they are free to select from any of these options, and that they are not under any time pressure to make any of these choices.

The research can also be used to refine and simplify the key themes that customers need to understand. From a customer point of view, customers need only to understand what direct access means to them, and what choices are available to them. In designing the CEP messages, the IOUs and DDB Needham must recognize the importance of this statement. Time and money should not be spent on developing materials about electric restructuring that are difficult for consumers to understand. Instead, some refined and easy to understand messages need to be developed so that consumers are informed as to what direct access means to them, and what choices are available to them.

We agree with the parties who suggest that the CEP messages include the topic of aggregation. EREG appears to believe that aggregation is an important message as well, and plans to test this message during the consumer research phase to determine the level of interest. The topic of aggregation is of particular importance to residential and small commercial customers, the groups that make up the target audiences for the CEP. As we noted in D.97-05-040:

“Access to aggregation may be the only feasible way in which small customers can participate in, and benefit from, direct access. ... Through aggregation, the transaction costs of direct access can be reduced. In addition, aggregation may allow individual customers to increase their market leverage by aggregating their total demand.”

The IOUs and DDB Needham need to ensure that the messages and themes include a discussion about how aggregation is expected to work, and the importance of aggregation to these kinds of customers.

AB 1890 also emphasized a preference for renewable energy. In its report to the Legislature regarding AB 1890's renewable mandates, the CEC recommended

that \$5.4 million be made available over the next four years to develop and disseminate information to consumers about renewable energy. The CEC views consumer education as the key to developing demand for energy-efficient products and services, and believes that it is important to coordinate with the EREG to ensure that the CEP is complete, comprehensive, and consistent with the activities of the other entities that have responsibilities for educating the public about renewable energy and energy efficiency. The IOUs and the CEC should work closely to help draft the messages that are to be included in EREG's overall consumer education effort. Once the CEP ends, the continuing educational efforts of the EET should be coordinated with the CEC as well.

Some view the proposed CEP as a huge marketing campaign to sell consumers on electricity deregulation. That should not be the CEP's intent. Rather, the CEP should be designed in a manner that inform consumers about their choices and options. The design of such a plan must help consumers overcome their thinking that the incumbent IOU is the only provider of electricity. Consumers must understand that there are other providers in the marketplace, and that they are free to choose from those providers. Consumers must be placed in a position to understand how they can participate in the market. If consumers are not made aware of their options, direct access will be of little benefit to residential and small commercial customers. In order to stimulate direct access activity by these kinds of customers, an extensive and thorough campaign is necessary to provide consumers with information so that they are made aware about the choices that they have.

Approval of the Messages

Section 392(d) states: "The education program shall be subject to approval by the commission."

Some of the parties express concern about who will review and approve the vendor-produced CEP materials before they are distributed to the general public. They contend that not only must the EREG and the Commission be given an opportunity to review this material, but that there should be input from the stakeholder groups to further ensure quality and accuracy of the public education materials.

With respect to review by the Commission, one suggestion is to have someone from the Consumer Services Division or the Energy Division review the EREG materials. Some parties believe that such a review procedure would not cause undue delay or other disruptions.

Discussion

In order to address this issue as to who should approve the CEP messages and themes, we first need to state what our interpretation of Section 392(d) is. Does the “education program” mean that all of the educational messages and themes need to be approved by the Commission? We believe that it does.

In Section 392(b), the Legislature stated its intent that “electricity consumers be provided with sufficient and reliable information to be able to compare and select among products and services provided in the electricity market.” How can we ensure that the messages and themes are reliable? When Section 392(b) is read in context with Section 392(d), the inescapable conclusion is that the Commission needs to approve all aspects of the education program before the messages are disseminated to the public so as to ensure that customers have “the information necessary to help them make appropriate choices.”

We do not believe that the review of the proposed CEP materials should involve other parties. The time for getting the CEP materials into the households and hands of consumers is now. A review process involving other parties is likely to delay the timely dissemination of materials. Also, the potential for gaming the content of the messages to advantage one party over another is reduced. For those reasons, we reject the suggestion that the review and approval of the proposed CEP materials involve other parties.

We will, however, use the Commission staff for the review and approval process. The staff is in a position to evaluate whether the proposed CEP materials are technically accurate, and whether the materials are unbiased and neutral in tone. The staff should not be reviewing the proposed materials for creative content. Before the printed materials, print, radio, television and other media advertisements, script

training materials for the call centers, and all other information that is used or incorporated in or forms the basis for any CEP educational effort, are utilized and finalized, the IOUs shall forward prototypes or proposed samples of those materials to the Commission's Energy Division for the review process. This means that all of the materials that the IOUs plan to jointly disseminate or to incorporate in the CEP's printed and spoken materials to reach their customers, the general public, or the media, must be submitted for review and approval. Those materials may be provided in stages as the materials are developed. A cover letter shall accompany the materials. The letter shall explain how the materials express the themes and messages contained in AB 1890 and D.97-03-069 and other relevant Commission decisions and statutes of this state, the purpose of each of the materials, and how the materials will be used.

Therefore, we will delegate to the assigned Commissioners, in coordination with the Director of the Energy Division, his designees, and the Public Advisor, the responsibility for reviewing the submitted materials for strictly technical accuracy, and to ensure that the proposed materials are neutral and unbiased in tone. The various offices shall coordinate this review to ensure that the review objectives are met, and so that the materials can be reviewed in a timely fashion. The Energy Division shall have 3 business days from the date of receipt to consult with the assigned Commissioners, to review the proposed CEP materials and to notify the IOUs if the submitted materials are technically inaccurate or biased. If no such notification occurs within this time frame, the materials submitted shall be deemed approved for use in the joint CEP. In the event that this review process is not working as intended, the Commission will entertain a motion, with a shortened response period, to reconsider this review process. The assigned Commissioners are delegated the responsibility to consider such a motion and to implement an alternate review process should one become necessary.

As explained below, we shall also require that all approved CEP printed materials contain a written legend stating something like: "This [advertisement, booklet, brochure, or pamphlet] has been reviewed and approved by the California Public Utilities Commission," or "This [advertisement, booklet, brochure, or pamphlet]

is authorized by the California Public Utilities Commission.” We shall leave it up to the IOUs and DDB Needham to develop suggestions for such legends. The assigned Commissioners will select the legend to be used when the first batch of materials are presented for the review process. We shall also require that all television spots contain the same discernible written legend or voiceover of the legend. Similarly, radio spots shall be required to have the same voiceover legend. Other media, such as an Internet web site, shall contain similar legends as well. The call center operation would not be required to make this announcement. However, the call center operators answering the incoming calls shall refer to it as the Electric Education Call Center.

Management of the CEP Effort

With respect to the management of the CEP effort, some of the parties suggest that the EREG board empower a committee of three to five people to work with the agency to develop the CEP and create the advertising concepts. This committee should be made up of persons with the greatest understanding of consumer advertising and

the most experience in working with agencies. Others feel that regardless of the EREG's governing structure in relationship to the ad agency and the CEP's implementation, consumer, low-income, and multilanguage representatives must remain as active managers of the CEP and the ad agency.

Others assert that the proposed CEP fails to include a clear and coherent management and decisionmaking process. The proposed CEP did not identify the management and creative teams to be assigned to the project, and fails to describe how the campaign will be managed, and how the decisions will be made.

EREG states that to ensure efficient operations and timely decision making, the EREG has organized itself into various committees. The Operations Committee is responsible for board administration, which includes such things as developing board agendas, fiscal oversight of board expenses, and coordination and drafting of the monthly Commission reports.

At the June 19, 1997 meeting, the EREG established two additional committees to assure timely review of the agency and public relations' work products. These committees are the DDB Needham Lead Agency Committee (Lead Agency Committee), and the Rogers & Associates Lead Public Relations Agency Committee (Public Relations Agency Committee). The Lead Agency Committee will be responsible for the review of all products produced by DDB Needham, including, but not limited to, television, radio and print advertising, brochures, and other collateral materials. This committee would be made up of a cross section of EREG board members representing various interests. The Public Relations Agency Committee will be responsible for overseeing the work of the public relations agency and its partners. Also, interested board members will provide advice and counsel to the lead public relations agency and its partners in the area of community outreach, CBOs and regional representation. The full EREG board remains responsible for setting CEP objectives, approving core CEP messages, establishing performance measurement criteria, and approving the monthly CEP budget and workplan, and any changes in these areas. EREG also proposes that the Commission authorize one person from the Energy Division staff to serve on these two agency committees. EREG contends that having a single point of contact for

approval and review by the Commission will assist the EREG and DDB Needham in timely executing the CEP.

Discussion

The assigned Commissioners have been observing the CEP process, and the role that the EREG has had in developing the CEP on behalf of the utilities. The EREG has done an admirable job in the time that it has had. The members of the EREG have provided valuable insight and input into the proposed CEP. Together with the lead agency's input, the EREG has created a firm foundation for the framework of the joint CEP.

Although we envisioned in D.97-03-069, as did PG&E, SDG&E, and Edison, that the EREG would provide oversight for the development and implementation of the CEP until May 31, 1998, we now believe that the utilities should dissolve the EREG. In the coming months, as the CEP is executed, we believe that it is imperative that the utilities take a more proactive role so that the legislative objective of having the electrical corporations, in conjunction with the Commission, "devise and implement a customer education program informing customers of the changes to the electric industry" can be fulfilled. (PU Section 392(d).)

We have carefully considered whether the utilities should retain the EREG to manage and oversee the CEP during its implementation stage, or if the utilities should become more involved in the day-to-day operations of the CEP. We believe there are several reasons why the utilities should dissolve the EREG at this time.

First, we believe that streamlined efficiencies will result. Instead of having 19 members and various committees to manage and make decisions, the four IOUs could appoint or retain an experienced lead agency manager to interact with and oversee the operations of the lead agency and its subcontractors. An example of how this new structure can improve the efficiency of the CEP process can be found in the EREG's monthly report for June 10 - July 10, 1997. The monthly report describes the EREG's Lead Agency Committee as being made up of seven members. This committee oversees the day-to-day relationship with DDB Needham. The EREG also contemplates

that in the near future, a Contract Manager will be retained “to ensure that all aspects of the lead agency contract are faithfully and fairly executed in the best interest of the EREG.” In addition, the EREG has a six-member Public Relations Agency Committee to manage the relationship with the lead public relations agency. The new structure will reduce the unwieldy decision making process of the EREG so that quick turnaround decisions can be made by the utilities. Also, the utilities’ appointment or retention of a lead agency manager will result in more direct control over the lead agency.

This Commission has experimented with various new ways of utilizing stakeholders in the regulatory process. One such effort was the proposal of the utilities to create a stakeholder group to develop, on behalf of the utilities, a CEP. We were relying upon the EREG to develop a plan that would receive broad industry and stakeholder support. The EREG’s proposed CEP plan, for whatever reason, did not garner the type of consensus that we had hoped to achieve by involving a stakeholder group in the development of the proposed CEP.

As we moved forward with this process, it became apparent that Commission oversight of the CEP was not in anyway lessened by the utilization of the EREG. The Commission would still need to review the proposed CEP, as well as the specific messages contained in the various materials. In a sense the EREG was duplicative of the Commission’s CEP review process. Given the difficult task ahead of us, duplicate levels of management and oversight need to be eliminated.

Second, as we examine the level of effort required by the members of EREG, it became apparent that the development and management of the CEP was increasingly a full time job. We had not expected that membership on the EREG would be as time consuming as it has turned out to be. The level of involvement required of the EREG members is more than we can expect from part-time board members. In addition, overseeing the CEP using a committee process complicates matters. As we move forward to implement the CEP, the structure of the EREG could hinder, rather than facilitate the process.

A third reason for dissolving the EREG is that it will eliminate any possible consumer confusion over the CEP messages. Instead of having people wonder

what the EREG is or what it does, the CEP messages will be clearly identified with the CPUC.

Fourth, the development of the messages will be improved by having the utilities more closely involved in the day-to-day operations. The utilities have extensive subject matter expertise that the lead agency should utilize. Should the lead agency have questions on particular electricity topics, or on the CEP, the utilities have the resources to quickly find the answers to those types of questions.

Our fifth reason for dissolving the EREG is to improve the accountability of the utilities for the CEP. Instead of having three voices out of 19 on the EREG, the utilities have direct control over the management and decisions of the lead agency and its subcontractors. This direct control will ensure that deliverables are on time and within budget, and that the CEP will surpass its conservative aided awareness goal. In light of the disallowance procedure we have established for failure to meet the aided awareness goal, it is imperative that we give the utilities more direct control over the product result.

Our final reason for dissolving the EREG was that the ability of the Commission to effectively oversee the CEP was hampered by the very nature of the EREG. Unlike the utilities, over whom our authority is clear, this Commission's ability to oversee the activities of the EREG were tenuous at best. Although the EREG was created to develop and implement the CEP on behalf of the utilities, the Commission lacked effective oversight and control of the EREG framework. The solution to this is to require the utilities to dissolve the EREG. By dissolving the EREG, the IOU's will assume direct responsibility for the CEP and for the decisions made in its implementation. Most importantly, the Commission can hold the utilities accountable for the efficacy and cost-effectiveness of the CEP.

Dissolving the EREG does not mean that the utilities should consider retaining a different advertising agency and different subcontractors to work on the CEP. The IOUs and the EREG have already gone through the process of screening and hiring a lead agency for the CEP. Those efforts should not be abandoned, especially in light of the time frame to implement the CEP, the work that has been done to date by

the EREG, the lead agency and its subcontractors, and the monies that have been spent on the lead agency. The utilities should investigate from a contractual point of view how the services of the lead agency and its subcontractors can best be retained. It is also foreseeable that some transitional adjustments will be needed between the lead agency, its subcontractors, the utilities, and the EREG. It is our desire that the EREG work closely with the utilities and the lead agency to resolve these issues as quickly as possible, and to conclude the EREG's activities in a timely manner. Notwithstanding the wind down activities of the EREG, the utilities shall immediately assume the day-to-day management of the lead agency effort. The activities to conclude the EREG's affairs shall occur no later than 30 days from today's date. In the revised budget summary in the conclusion section of this decision, we have reduced the EREG line item to a total of \$350,000 for the EREG expenses. As of July 10, 1997, EREG operational expenses totaled \$149,791.

We also realize that there may be other contractual arrangements in place, such as the fiscal arrangement with the East Bay Community Foundation (EBCF),¹⁴ as well as other details such as office space, office help, equipment, and operational issues that need to be resolved. The utilities and the EET should work closely with the EREG to determine what operational matters could be taken over by the EET, if any.

The IOUs shall forward a letter to the assigned Commissioners and the ALJ which reports on the status to resolve the various contractual arrangements that EREG, on behalf of the utilities, had previously entered into or which were pending as of the effective date of this decision. The letter shall also indicate what actions have been taken to substitute the appropriate entities in the place of the EREG, and what financial transaction arrangements have been put in place. This letter shall be forwarded no later than 30 days from the effective date of this decision.

¹⁴ According to the EREG monthly report for April 18 to May 14, 1997, EBCF was selected by the EREG to serve as the fiscal agent for EREG.

It is not our intent to limit stakeholder interest in the CEP process by dissolving the EREG. The EREG had the difficult task of designing the framework for the CEP. This was accomplished through the input of all the different EREG members. We value their past contributions and input, and invite them to provide future input. The EREG members, should they desire to do so, are invited to possibly serve on the EET. If they are interested in doing so, they shall write a letter to the assigned Commissioners expressing their interest. Such a letter shall be mailed to the Commissioners within 15 days from the mailing date of this decision, with a copy to the Executive Director and the assigned ALJ. Upon receipt of the letters, the Commission shall consider the current composition of the EET to determine if an overlap of interests would occur from adding additional members, and if the EET would benefit from having additional members. D.97-03-069 may need to be modified in a subsequent decision in the event additional members are to be appointed to the EET.

As the implementation of the CEP draws near, it should be left to the IOUs to implement and execute the CEP. We recognize that some parties may oppose the idea of dissolving the EREG for fear that the development of the messages will be skewed by the utilities' input. With the Commission review and approval process in place, we believe that this fear is unfounded. As stated earlier, the Commission intends to take a direct, "hands-on" approach to the messages and themes of the CEP to ensure that they remain neutral and unbiased. The Commission will be the final arbiter of all CEP information that is disseminated to the public. We also expect the utilities and the lead agency to adhere to the target audience strategy contained in the proposed CEP, especially with respect to the special-needs audiences.

The Commission expresses its gratitude to all of those who participated on the EREG. Through their cooperation and dedicated assistance, the EREG members have created the framework for an educational effort that everyone in the nation will be looking toward. We will direct the Executive Director to prepare for the Commission's approval, resolutions thanking and commending each of the EREG members for their invaluable contributions to this important endeavor.

Whom the CEP Should Focus on

We noted in D.97-03-069 that Section 392(d) appears to require that all customers be informed of the changes to the electric industry. However, that does not preclude the EREG from focusing its CEP efforts on certain groups of customers. The Commission recognized that there is a particular need to educate small consumers. We noted in D.97-03-069 that in the Preferred Policy Decision, the Commission stated that special attention toward ensuring that customers, especially those with limited English-speaking ability or other disadvantages, be provided with “correct, reliable and easily understood information to help them make informed market choices.” The Commission went on to say that multilingual outreach efforts need to be considered, as well as the use of traditional and non-traditional forms of communication media. (D.97-03-069, pp. 20, 28.)

The proposed CEP has four priority targets: small residential customers, small commercial users, special-needs audiences such as low-income, geographically isolated, multilingual, and physically challenged customers, and opinion leaders.

Three main issues of contention arose with respect to the target audiences. The issues are whether the customers of the municipal utilities are covered by the CEP, how residential and special-needs customers are most effectively reached, and how much effort should be spent on reaching small businesses.

The CEP Message and Customers of Municipal Utilities

The proposed CEP is based on meeting the educational needs of all Californians, including those customers in the franchise areas of the municipally owned utilities.

Edison seeks clarification about the role of the municipalities in the CEP effort. Edison’s view has been that the EREG should target its efforts toward consumers in the service areas of those utilities funding the CEP. By having municipal utility representation on the EREG, Edison believes that the educational messages will be sensitive to the difference between the IOUs and the municipal utilities. The proposed CEP, on the other hand, suggests targeting direct mailing marketing efforts to all California consumers. Edison points out that this would include sending out

educational materials to consumers served by municipal utilities that have chosen not to fund the CEP. This will result in non-municipality ratepayers subsidizing the education of municipal utility customers.

SDG&E suggested that one way of reducing the proposed level of funding is to limit the scope of the CEP to only the customers of the IOUs.

Others commented that the customers of the municipal utilities may not have the choice of direct access available to them, yet they will be in the same target area of the other consumers who will receive the CEP messages. To minimize confusion among the customers of these municipally owned utilities, this difference needs to be clarified in the CEP messages.

In response, the EREG requests guidance from the Commission with regard to how the CEP should address customers of the municipal utilities. EREG states that the proposed CEP includes efforts to educate customers of the IOUs and municipal utilities. However, because AB 1890 allows the municipalities to chart their own future, the customers of each municipal utility will likely face different circumstances in the restructured electric industry. If the municipalities are included in the CEP, EREG believes that educational materials would have to be created for each municipal service area.

Discussion

In deciding whether the customers of municipally owned utilities should be included as part of the joint CEP, we need to refer to Sections 392(b) and 392(d). In Section 392(b), the intent of the Legislature seems to be that all electricity consumers be provided with information.¹⁵ Section 392(d) suggests that the electric corporations subject to the Commission's jurisdiction should devise and implement a

¹⁵ Section 392(b) provides in pertinent part: "It is the intent of the Legislature that (1) electricity consumers be provided with sufficient and reliable information to be able to compare and select among products and services provided in the electricity market...."

CEP informing their customers of the upcoming changes to the electric industry.¹⁶

D.97-03-069 recognized this difference, and left it up to the municipal utilities to decide if they wanted to participate in the joint CEP.

The broad policy implicated in AB 1890 is that eventually all of California's electricity market should be opened to competition, including the service territories of the municipal utilities. (See Stats. 1996, ch. 854, Section 1(a), pp. 2-3; and Section 12, pp. 61-66.) With that in mind, we read Section 392(b) to suggest that the Legislature intended for some general kinds of information about electric restructuring to reach all electric consumers in California. Newspapers, television advertising, and radio advertising are three prime examples of media which easily spill over from the service territory of an IOU into the service territory of an adjacent municipal utility. We see no problem with disseminating information about electric restructuring in this fashion. However, care must be exercised so that these kinds of boundary-crossing materials do not mislead customers of municipal utilities into believing that direct access may be available to them.

We do not believe, however, that the IOUs' CEP effort needs to design specific materials for municipal utility customers, or that the CEP effort should include direct mail drops to customers of the municipal utilities. Although the direct mail budget includes an allowance for municipal customers, we do not believe the overall direct mail budget should be reduced. The savings could be applied to an additional drop to certain customers or for other related efforts, such as additional bill inserts as described below.

The CEP Message And The Use of CBOs

The proposed CEP contains \$5 million for grassroots community communications and promotions. Of the \$5 million, \$1 million is allocated for local

¹⁶ Section 392(d) provides in pertinent part: "Prior to the implementation of the competition transition charge, electric corporations, in conjunction with the commission, shall devise and implement a customer education program informing customers of the changes to the electric industry."

events and retailer tie-ins. The proposed CEP plans to use the grassroots organizations and CBOs to distribute information, and to inform and educate key target audiences.

Some of the parties commented that the Commission should ensure that the CEP reaches the hard-to-reach segments of the general population. They contend that the proposed CEP lacks an aggressive strategy for reaching groups with special needs because traditional advertising methods are proposed. Critics of the proposed CEP point out that 21.4% of California's residents are at or below the low-income standard as established for the utility companies. However, less than 6% of the total education budget is allocated to reach and educate this group.

Others commented that despite the emphasis in D.97-03-069 that traditional and non-traditional forms of communication media be used to target low-income, limited and non-English speaking, elderly, and other hard-to-reach consumers, 73% of the proposed CEP's budget represents traditional forms of media outreach. Critics contend that this traditional type of outreach may be successful in reaching the general market, but is insufficient to target vulnerable and hard-to-reach communities. They assert that these types of communities require direct, hands-on consumer education. They recommend that the proposed CEP be revised to target at the outset those classes of customers who are the least knowledgeable about the changes occurring in the electric industry. The commenting parties recommend that a minimum of \$10 million or \$15 million be allocated for outreach by the CBOs and grassroots efforts. The parties also assert that in the Caller ID education effort, the same consultant who assisted the CEAP in its critique of the proposed CEP had recommended that 50% of that budget be allocated to CBO outreach. That consultant had also concluded that media-based campaigns rarely have sizable impacts for educational efforts.

Some of the comments to the proposed CEP question whether DDB Needham and its selected public relations and advertising agencies are experienced in working with CBOs at the grassroots level. The commenting parties doubt whether these agencies can work effectively with CBOs and other grassroots agencies throughout the state since many of the selected agencies are located in Southern California. They assert that the proposed CEP's grassroots efforts appear wasteful and

inefficient because the proposed CEP fails to rely on the existing network of CBOs to educate low-income and special-needs customers. A suggestion was made that the EREG retain a community foundation with extensive experience and ties to the community to coordinate the function of working with CBOs.

EREG states that the hard-to-reach, special-needs consumers will be targeted using a range of non-traditional communications tools, and messages will be delivered where people live, work, and play. CBOs that serve specific target populations, and CBOs where people congregate, such as public libraries, schools, churches, and senior citizens centers, will be utilized to deliver the electric restructuring message. Stories about electric restructuring will be offered to smaller publications which are circulated in hard-to-reach target communities. Examples of these include language-specific community newspapers and newsletters to members of various associations.

EREG also states that the direct mail effort will reach each and every household and small business in California. The direct mail will also be developed in a minimum of 8 languages. Direct mail that is targeted to small businesses will also be multilingual. In addition, the toll-free call center is expected to be able to handle non-English speaking calls, and language-appropriate information can be sent out to callers.

With respect to the budget allocation for CBOs and consumer groups, EREG responded that approximately 14% of Pacific Bell's \$35 million Caller ID CNEP was dedicated to community outreach efforts, while only 6% of GTEC's \$18 million Caller ID CNEP was used for community outreach efforts.

Regarding the funding for CBO and grassroots activities, EREG states that very specific criteria will be structured to ensure that ratepayer dollars are used wisely. For example, EREG plans to require the CBOs to produce predetermined deliverables to help achieve program goals. Monitoring and timed compensation will be used as part of a strategy to ensure accountability. EREG also plans to use the public relations agencies and field representatives to provide direct support to CBOs on a statewide basis. These efforts will include the dissemination of informational materials and participation in community events. EREG believes that by utilizing this approach, the

proposed funding levels for grassroots activities will be adequate for an effort of this scope and duration. EREG also points out that community publications will also assist in communicating the CEP messages.

EREG contends that DDB Needham and its subcontractor partners have extensive experience working with CBOs at the grassroots level. EREG devotes approximately three pages to explain the qualifications of the consultants to the EREG in working with CBOs at the grassroots level. EREG also plans to convene a “Task Force Work Group of Board members” to help advise the public relations firms on CBO and community outreach efforts.

Discussion

The proposed CEP’s priority targets are residential customers, small commercial customers, special-needs customers, and opinion leaders. Special-needs customers include low-income customers, geographically isolated customers, multilingual, and physically challenged customers. Large commercial and industrial customers are not priority audiences because those types of customers generally have more resources and knowledge about electricity services. These large customers will also be reached by the mass media portion of the CEP.

Many of California’s electric customers are considered low-income households, and therefore qualify for energy discounts under the California Alternate Rates For Energy (CARE) program, formerly known as the Low-Income Ratepayer Assistance Program. In addition, many of the utility service customers in this state speak a primary language other than English. Under the proposed CEP’s media delivery strategy, 33% of the total requested budget would be spent on mass media efforts to reach all target audiences. Another 6% of the total budget would be used on public relations efforts, which includes identifying neighborhood organizations and grassroots organizations. Yet, less than 6% of the total budget is actually allocated for educational outreach efforts by grassroots organizations and CBOs.

We agree with those commenting parties who suggest that the proposed CEP needs to refocus some of its media delivery strategy for reaching residential, small commercial, and special-needs customers. Instead of relying on so

much mass media to reach these target audiences, the strategy should shift to incorporate a larger percentage of outreach by grassroots organizations and CBOs. This kind of non-traditional method of outreach may be a more effective way of educating target audiences, especially those who are: on fixed or low-incomes; limited English speaking; physically challenged; or geographically isolated. These same kinds of customers are also vulnerable to unfair or abusive marketing practices, a topic which can often be communicated better in person, rather than in print.

The problem that we face in crafting appropriate methods of reaching out to educate consumers is that the limited life of the CEP limits the effectiveness of CBO-based educational outreach effort. For that reason, we adopt a two-pronged approach for educating the target audiences.

The first prong is the integrated community and grassroots activities that are described within the proposed CEP. DDB Needham and its subcontractors would manage this effort with the oversight and guidance of the IOUs. This effort entails delivery of information about the CEP to places where people live, work, and play. These include such things as community events, meetings regarding electric restructuring, and distribution of CEP materials through a variety of different organizations. These activities are to take place throughout the state, and reach all the target audiences. Since we plan to expand our CBO educational outreach effort, we will fund this aspect of this grassroots efforts at \$4 million, instead of the \$5 million requested in the proposed CEP. (See Appendix A.)¹⁷ This grassroots and community education and outreach effort would terminate at the end of the CEP effort on May 31, 1998.

We strongly encourage the IOUs, and DDB Needham and its subcontractors, to develop a process to involve community groups and leaders in the final development of these community and grassroots activities. Involvement could

¹⁷ See the public relations discussion regarding the monies in that budget category for oversight and management of these grassroots activities.

take the form of focus or feedback groups, or letters of suggestions, or other means. Through this kind of advance participation, the kinds of community and grassroots activities contemplated as part of this effort can be enhanced.

The second prong of this approach is a much more robust and focused CBO effort. As we noted in D.97-03-069 at page 36, a transition period is likely to occur after direct access becomes available. This transition period is the time when some customers may still be uninformed about direct access, and their choices in this new, competitive market. Others may decide to wait to see how things develop before deciding to opt for direct access. The outlook of this second prong is to continue to educate the public during this transitional phase. Therefore, the second prong is to have the EET develop and implement a CBO-based educational outreach effort. We will fund this effort by authorizing \$10 million for the EET's CBO-based educational outreach effort. These designated monies will ensure that this CBO effort will be sustained for a sufficient period of time so as to have an impact upon the communities that these CBOs serve.

The EET's role in developing this second prong is consistent with the role that we envisioned for the EET. In the Preferred Policy Decision, the Commission stated that the purpose of such a trust "is to ensure independent, multicultural education, advocacy, and research for small business and residential customers. (D.95-12-063, as modified by D.96-01-009, p. 229.) We further clarified that role in stating "that the role of the EET is to promote consumer education in helping customers to understand the changes to the electric industry during the transition period to direct access." (D.97-03-069, p. 38.)

Due to the nature of the EET's role as an advisory body to the Commission, there will be somewhat of a lag before this CBO educational effort is up and running. The EET is required to abide by certain state contracting and procurement

requirements, as well as the open meeting laws of this state.¹⁸ In order to develop a well thought, detailed, and complete CBO-based educational effort, the EET will need some time to reflect upon such a plan, and to possibly retain a consultant to assist in this planning process, and a consultant to manage and coordinate this effort once the approved plan is in place. The Commission will then review the plans for the CBO effort to ensure that a comprehensive and detailed plan are in place before the CBO efforts begin. As a result of these constraints, this effort may not be implemented by the CBOs until four to six months from today.

The first prong of our community effort , as well as the rest of the CEP effort, addresses this time lag by educating all target audiences immediately. By the time the joint CEP efforts start to taper off, the CBO effort will begin in earnest, leveraging and building upon the earlier CEP efforts. Other kinds of EET related activities, once they have been approved by the Commission, will occur during this time period as well.

As a result of this two-pronged approach, we retain the community and grassroots efforts that are part of the CEP, as well as a more vigorous, longer duration CBO-based education effort. The combination of these two approaches will ensure that the benefits of this community-based education approach are maximized, and that there is a comprehensive effort to timely deliver information about electric restructuring to all communities.

The EET's role is further explained in the EET Effort section of this decision.

¹⁸ As an advisory body to the Commission, the EET members are subject to the Political Reform Act, which requires them to adhere to certain guidelines regarding conflicts of interest. This could prevent an EET member's employer, or a company in which the member has an interest, from participating in the CBO educational outreach effort.

The CEP Message And Education of Small Businesses

The June 6, 1997 ACR invited comment on the topic of whether the amount of money allocated to educating small businesses is adequate. The total proposed CEP budget which targets small businesses amounts to about \$3.7 million.¹⁹

Some of the commenting parties believe that the money allocated to target the small business market is insufficient. They contend that this particular market segment stands to benefit the most from restructuring because the cost of electricity is a large part of the operating expense of a business. Surveys show that more people work for small businesses than for major companies. Owners of small businesses are least likely to be in a position to hire consultants to inform them of how they can save on their energy costs. Consequently, these kinds of businesses will welcome the materials supplied by the CEP because such information will inform them of how to save money and what new services will be offered.

Others believe that since small business owners will be exposed to the CEP as individuals, the budget allocation for this target audience appears sufficient. They contend that business owners, regardless of size, are generally well informed about the issues which affect their day-to-day operations and their profit margins.

EREG's response defends the use of mass media to reach small businesses. EREG references research by two companies which they assert shows that small business owners and proprietors are reached by all forms of mass media, and that the smaller the business, the more its media habits mirror the population at large. The dollars budgeted for small business should therefore be viewed in conjunction with the budget line item for Mass Media-General.

EREG's response also recognizes the needs of small businesses, and addresses those needs through its public relations and community outreach approach. EREG plans to develop information which responds to the specific needs and questions

¹⁹ This figure includes the separate line items for small business, as well as a percentage of the direct mail budget.

of small businesses. The public relations effort will also reach out to small businesses through CBOs such as chambers of commerce, professional and trade associations, and agricultural cooperatives. EREG also plans to use field representatives to identify regional and local business groups and events for use as outlets for distributing information. Small businesses will also be targeted as part of the media outreach, by encouraging the placement of articles in trade and industry magazines, newspapers, and newsletters.

Discussion

Small businesses make up a large segment of the state's electric customers. Their electric load is usually greater than residential customers, but smaller than the loads of industrial and medium to large commercial customers. Generally speaking, because the loads of these small businesses tend to be smaller, the larger energy providers tend to overlook this customer segment as a source of potential revenue. Since the owners of the small businesses lack the resources to actively investigate how they can reduce their energy costs, much of the information that they will learn about electric restructuring will come from what they are exposed to.

Although the proposed CEP effort plans to address this market segment through the use of mass media, public relations, and community outreach, we believe that additional efforts should occur. For example, more specific kinds of collateral materials could be developed for specific kinds of small businesses, such as restaurants, grocery stores, or laundromats and dry cleaners. These kinds of small businesses tend to use more electricity than other small businesses. Expanded media outreach efforts in the business press and trade journals could also occur. Targeting small businesses and making them aware of direct access will enable these business owners to gain better control over their electricity expenses.

We believe that the budget for small businesses should be increased by \$1 million. This increase should find its way into the budget line items for small business public relations, production, and collateral.

Allocation of Budget

Mass Media

The proposed CEP recommends a mass media budget of \$28.645 million. Of this amount, \$13.745 million is budgeted for general media, and \$11.968 million is budgeted for ethnic/multilingual media. The \$28.645 million represents close to one-third of the entire budget request of \$87.5 million.

EREG's reasoning for using television is that it is the only medium capable of reaching millions of mass and special-needs customers in a timely and cost-efficient manner, it adds legitimacy to the message, it increases the impact and relevance of other communications tools, and it has the power to break the low-interest barrier.

Supporters of the proposed CEP contend that the proposed media mix of television, out-of-home, and radio and print seems reasonable. In addition, the other budget allocations for CEP-related materials appears appropriate. Some believe that the direct mail effort may be underfunded given the message complexity and the need to customize the message for different target audiences.

Some of the parties commented that the development of an effective media budget requires an evaluation of each plan on a case-by-case basis. Careful attention needs to be paid to the plan's objectives and available audience delivery projections. Effective message frequency goals should be established based on a number of media planning criteria, with special consideration to the message and complexity of the information. They point out that the proposed CEP lacks specifics regarding the actual market strategy, creative approach, key messages, media vehicles, and media plan.

Some challenge the proposed CEP's label as an integrated marketing plan. They assert that most of the budget is for a mass audience, mass media effort. These critics argue that an extensive television campaign is not necessary. They do not see the CEP as selling a product. Instead, they view the CEP's purpose as informing consumers about a complicated and vital issue. In order to communicate this, other ways of

reaching the target audiences should be used instead of television, such as the use of CBOs.

Others point out that the mass media plan may overlap with some of the efforts regarding target audiences. For example, the audiences targeted by the ethnic/multilingual mass media may overlap substantially with the general mass media component. The proposed CEP does not indicate how much various ethnic groups rely on ethnic/multilingual mass media in comparison to mainstream radio and television as an information source. Without this information, some of this proposed spending might be unnecessary.

EREG contends that the proposed CEP is an integrated marketing plan of which 33% of the proposed budget is allocated to mass media. Instead of relying on a single communications tool, the CEP will use multiple communications channels with specifically defined roles to achieve its objectives. The proposed CEP begins with a broad message that will be communicated by mass media. It then transitions to more specific issues that are directed at more discrete target audiences.

EREG contends that the use of mass media is necessary to reach 34 million people in a relatively short period of time, and to overcome the inertia of this low-interest, low-involvement category. EREG states that a typical month of television will reach virtually all Californians with the EREG message approximately 9 to 10 times. The next two waves of mass media, which will be primarily broadcast, will be used to build awareness for the toll-free information call center, and to make people aware of the important brochure that will be coming in their mail.

In response to criticisms that a media-based campaign will not have an impact, EREG states that it is well documented and researched that mass media campaigns are successful. Public education campaigns such as the Partnership For A Drug Free America and the California Department of Health Services' Tobacco Control, have also published results which show the effectiveness of their media campaigns. EREG also contends that if mass media advertising was not successful, companies would not invest their marketing dollars.

Discussion

We are somewhat persuaded by the argument that less mass media may be needed in an educational campaign of this sort. A 30- or 60-second radio or television spot can only convey the simplest of messages, and cannot communicate a lot of information about electric restructuring in such a short time period. One must remember that the CEP is not selling a product or a candidate. Rather, the CEP is designed to educate and inform customers. For that reason, radio and television are not cost-effective for education and information purposes. Newspapers and magazines, on the other hand, offer the advantage of presenting memorable, in-depth, written messages.

We agree that mass media is an effective method of reaching millions of households in a short period of time. Although radio and television spots are not a very cost-effective educational tool, they can be used as tools to stimulate consumer interest in learning more about electric restructuring. Repeating the message through these kinds of media will assist consumers in wanting to learn more about electric restructuring.

Since the spots are going to be used to encourage and spur consumers to take action, such as calling the call center for more information, it is our belief that these kinds of media spots could be shorter. Also, other ESPs, as we are seeing already, will advertise their companies' service offerings. The campaigns by these companies will complement the CEP's mass media spots, which should be less frequent as a result of the related marketing campaigns of others.

For the reasons stated above, we will trim back the mass media expenditures by \$8 million. The mass media line items should be reduced proportionately so as to maintain the percentage allocations shown in the right hand column of the EREG Budget Summary shown in Appendix A.

In order to determine where the monies for mass media will be going, the IOUs shall submit the media plan to the assigned Commissioners and ALJ within 20 days of this decision. Since the media plans may contain confidential information, the IOUs should consider submitting the media plan under Section 583.

Public Relations Efforts

Six percent of the EREG's proposed budget is allocated to the \$5.23 million public relations efforts. Two-thirds of the \$5.23 million would be allocated for agency compensation of the public relations entities. According to the proposed CEP, these efforts are to build the EREG's credibility with the public as a neutral and unbiased source of information.

Some of the commenting parties point out that the proposed CEP does not explain how the public relations budget was arrived at, or what the tasks and activities will consist of.

Others commented that the proposed CEP places too much emphasis upon the EREG as a "brand name," which in turn distracts from the content of the message. Since the life of the EREG is limited, the focus should be on the education outreach effort itself, rather than on promoting the name and nature of EREG. One suggestion is to include a statement on all the CEP materials which states that the materials or message has been approved by the Commission. Some parties contend that the Commission should be the one which is identified in the news media as the entity responsible for electric restructuring, and as the place to get clarification and detail about the new competitive environment. They recommend that the Commission, in coordination with the EREG, should install the necessary mechanisms to respond to customer inquiries.

EREG responded that the objective of the public relations strategy is to establish the campaign's credibility as a provider of objective information on electric restructuring. EREG plans to achieve this objective by aggressively pursuing media relations, by implementing grassroots CBO programs, and through community outreach.

EREG asserts that the budget proportion of advertising to public relations is in line with other statewide education efforts, such as the Department of Health Services' Tobacco Education Program. EREG also points out that two-thirds of the public relations budget is allocated to fees, and that this ratio is typical of the public

relations field. Public relations includes such things as media relations, which involves writing press materials, and working with reporters to place stories.

In EREG's response to the June 6, 1997 ACR, EREG states that based on the outcome of consumer research, EREG proposes that the Commission be emphasized as the neutral and reliable source of information concerning the restructuring of the electric services industry. The EREG states that it never intended to brand itself as the neutral reliable source of information.

Discussion

The proposed CEP originally proposed that the public relations effort include activities to "build credibility for the EREG message as the trusted, unbiased resource for electric restructuring information prior to the start of the media campaign." Phase I and II of the CEP's communications program include activities to promote and build credibility for the EREG. Since we plan to terminate the EREG's existence and its involvement in implementing the CEP, there is no longer a need for this kind of activity. As we discussed earlier, in order for people to recognize that the Commission has authorized the CEP messages, the CEP messages need to include an approval announcement on the print and media material distributed or disseminated to the public. In any media or public relations contact, it should also be stressed that the Commission is responsible for oversight of the CEP messages and themes.

The public relations effort also proposes to provide in-depth information to the media, government and opinion leaders. The public relations effort should not be involved in any governmental relations. That is an area where the Commission, as the responsible agency for implementing electric restructuring, needs to take the lead in. Public relations efforts in the areas of contact with media and opinion leaders need to be coordinated with the staff's outreach so that there is no overlap.

The public relations effort also needs to recognize the widespread media interest generated by the restructuring of the electric industry. When the direct access decision was announced in May 1997, it was front page news in the state's major newspapers. As January 1, 1998 approaches, and more companies start advertising, the

interest in electric restructuring issues will increase. The public relations effort can take advantage of that growing interest while reducing efforts in the area of media contact and relations.

Based on the reduction of efforts in the area of building credibility, governmental relations, and media contact and relations, the public relations budget should be reduced by \$1 million. The proposed CEP budget for public relations included costs associated with the management of the community/grassroots outreach efforts. The public relations budget should be further reduced because of the smaller scale of the community/grassroots outreach and education component of the CEP. Because the size of the grassroots efforts has been scaled back, an additional reduction of the total public relations budget by \$250,000 is reasonable. The total revised public relations budget will be a total of \$3,980,000.

Proposed Budget for Collateral/Fulfillment

Twelve percent of the entire budget is allocated to collateral/fulfillment. This amounts to \$10,500,000. Collateral/fulfillment is described in the proposed CEP as the actual cost of producing, printing, duplicating, and mailing of about 3 million multilingual informational video tapes, and 6 million multilingual information booklets.

Some of the parties believe that expenses in this budget item can be reduced. For example, the number of videotapes could be curtailed. Instead of targeting individuals to receive this item, tapes could be distributed to organizations to distribute. Given the EREG's assertion that electricity is a low-interest category, these parties doubt that consumers will request so much information. In addition, it is unclear how aggressively ESPs will seek out small customers at the outset of direct access. There also appears to be some overlap under this budget item with the activities that are planned for the CBOs. Others believe that the best approach for ensuring that consumers have the information they need to make informed choices is to use CBOs to disseminate this kind of information.

EREG agrees that the proposed CEP lacks details regarding the monies allocated for collateral/fulfillment. EREG states that detailed quantities for each

element are still being developed, and that only preliminary and gross numbers are available.

EREG responded that several communications tools will be used for the educational component of the proposed CEP. EREG contends that the brochures will be distributed through the mail, through CBOs, at community events, and in response to information requested through the toll-free information call center. Other materials, such as videos, will be developed for specific audience information consumption needs. The EREG is also proposing that small businesses may obtain an immediate request for information by a “fax-on-demand” information system.

EREG states that print runs of materials will be large enough to yield economies of scale, but will be small enough so that needed changes can be accommodated. EREG also plans to provide materials for the Commission’s outreach efforts.

The subject and content of the collateral pieces will be guided by the EREG’s planned focus groups, and by knowledge gained in studies that were conducted in other states, such as in New Hampshire.

Discussion

Videotapes, as a method of disseminating information to the general public, have the advantage of making it easier for consumers to learn about electric restructuring. Rather than reading, consumers are exposed to an in-depth explanation regarding electric restructuring. Although videotapes have been around for awhile, they have not been used as a way of disseminating information on a widespread basis. As we previously noted, the Commission should consider the use of non-traditional methods of communicating to consumers. We believe that this is one such method.

Although the tapes could be used or distributed by the CBOs and grassroots organizations as part of the CBO-based educational outreach effort managed by the EET, we believe the CBO and grassroots efforts should develop more creative approaches to educating their constituencies, rather than just showing or distributing the videotape.

With respect to the other collateral, we believe that it is important to have on hand the information necessary to further educate consumers. Once consumers are motivated to learn more about electric restructuring, the collateral will be needed.

Direct Mail and Use of Bill Inserts

The EREG proposes to produce and send out 24 million direct mail pieces. The proposed CEP allocates \$12 million for this direct mail effort, which represents 14% of the total budget.

Many of the parties suggested that the EREG take advantage of the space in the utility's monthly bill to distribute the CEP messages. Proponents of bill inserts believe that it is cheaper and more effective than more expensive television ads and direct mailings. The use of bill inserts also gives more credibility to the bill insert, and thus would be more effective in delivering the message. They contend that one or two bill inserts could effectively replace one direct mailing and save approximately \$6 million. Any such bill insert should include the toll-free number where additional information can be requested. Even if one accepts EREG's argument that bill inserts are ineffective for audiences in general, proponents contend that bill inserts are likely to be very effective and inexpensive for customers who are concerned about their electric bills. If the insert materials cause the weight of the billing envelope to incur additional postage, EREG could simply pay the cost of the additional postage.

A suggestion was made to require the utilities to include on their bills a toll-free number to call for a brochure about changes in the electric industry. This would be basically cost free, and would give exposure to the toll-free call center number.

PG&E commented that its experience with bill inserts as a means of effectively communicating complex information is mixed, and tends to support DDB Needham's observation that bill inserts are not a particularly effective form of communication. PG&E states that its customer research indicates that inserts which address changes in rates and announcements of the initiation of proceedings have very

low customer interest and readership. Inserts which offer energy efficiency rebates or literature through a toll-free number generate a greater positive response.

PG&E believes that depending on the content-neutral nature and form of such notices, and their relationship to the consumer education mandates set forth in Section 392(d), such notices could qualify for insertion in the utility bill envelope. PG&E points out that the logistics, timing, space availability, and size of any such bill inserts would need to be closely worked out with EREG and DDB Needham. PG&E also states that should the weight of the insert cause an increase in the postage for the bill, the overage would be charged to the CEP budget.

If bill inserts were used, EREG agrees that the costs would be reduced for mailing lists, postage, and lettershop. EREG does not believe that bill inserts can be the only delivery vehicle or even the primary delivery vehicle because of the size and weight limitations of the bill inserts, and because of the varied readership of bill inserts. EREG cites a report from the Direct Marketing Association that states, "Respondents were most likely to read, find useful, and respond to third-class mail from the government sector."

EREG favors the use of strategic and low-cost use of bill inserts to complement and extend the CEP. An example of such an insert could be a list of informational booklets that are available from the toll-free call center. EREG wants to work with the utilities on its direct mail efforts, so that the EREG can eliminate the cost of having to rent mailing lists.

Discussion

We agree with those who suggest that bill inserts be used to help disseminate the CEP messages. Bill inserts are likely to get more notice from a customer than CEP materials arriving as a separate piece of mail. Bill inserts are also cheaper than the cost of direct mail. Bill inserts have the added advantage of being addressed directly to the customer of record, rather than to the occupant of the residence.

The IOUs and DDB Needham need to think in terms of what kinds of cost-effective CEP materials can be used as a bill insert. An item which briefly describes the upcoming changes, the number of the toll-free call center, and the

availability of further information, is an example of one type of item that could be included as a bill insert.²⁰ Such an item could be produced quickly, disseminated to the target audiences by way of bill inserts, and could assist tremendously in stimulating the demand for more detailed information. Other items that could be mailed as bill inserts are a monthly series of selected topics of interest regarding electric restructuring. These could include such things as: what every customer needs to know about electric restructuring; the most frequently asked questions about electric restructuring; and consumer protection guidelines.

The reach into the target households through the use of bill inserts would be 100%. The cost to produce and include these items in a bill insert would be very modest in comparison to the cost of mass media. Such items could also improve the aided awareness goal for the CEP. If the aided awareness as measured by the ongoing research goes up as a result of the bill inserts, the mass media budget could be reduced significantly, and more bill inserts can be utilized. Needless to say, the affected IOUs and DDB Needham will need to closely coordinate the lead times needed to produce, review and approve the inserts, and include the inserts in the monthly bill. We will direct the IOUs to meet with DDB Needham to develop ways in which these kinds of short and to-the-point CEP messages can be included in the monthly bill as part of a series, or on a stand alone basis. Since the bill inserts are modest in cost, and because they may reduce the need for mass media spending, we have not changed the budget amounts to allocate more for bill inserts. In addition, the IOUs shall be required to insert these materials in their monthly billing cycles over the course of the CEP effort.

Although some of the commenting parties suggest we reduce the direct mail budget as a result of using bill inserts, we refrain from doing so. Depending on the success of the bill inserts, as monitored by the ongoing research, the IOUs may want to increase or decrease the number of bill inserts, or the number of direct mail

²⁰ This brochure could also contain a multilingual notice that additional information is available in a particular language.

drops. By retaining this budget amount, the flexibility to respond to changing conditions is enhanced.

Toll-Free Customer Call Center

The proposed CEP calls for the establishment of a toll-free call center to answer questions from consumers about electric restructuring, or to respond to requests for some of the CEP materials.

Some of the commenting parties state that the call center must be adequately wired, staffed, and trained, and that it have the ability to handle calls from non-English speaking customers. Others believe that the proposed CEP's call center should be the same as what the Commission's outreach plan is proposing.

Other suggestions include cutting back the hours of operation of the call center. Instead of a 24-hour staffed center, a 14-hour operation should suffice. A 24-hour service could be maintained for touch tone, menu-driven functions, so long as callers are able to leave messages that can be responded to when there is staff on duty. Parties also favor the ACR's suggestion that there be prerecorded and preselected electric restructuring topics. Another suggestion is for a two-level customer center where operators are trained to answer general questions, and other operators are able to help answer more complex questions or to refer the caller elsewhere for more detailed assistance.

In its comments to the June 6, 1997 ACR, PG&E stated that it does not intend to become involved in the training of the electric restructuring toll-free operators. PG&E believes that its involvement would contradict the premise of developing and implementing a neutral, unbiased educational program. In addition, PG&E states that it lacks the staffing to undertake this work.

In its comments to the June 6, 1997 ACR, EREG clarified what the information center will be doing. EREG states that the utilities will not be involved in the training of the call center operators. Instead, EREG proposes that the Commission staff and independent industry experts be utilized to help develop training materials, and be involved in the training sessions for the information center representatives. All training material would be approved by the EREG prior to its use. Updated materials

would be provided on an on-going basis as situations change and information becomes available.

The information center would be staffed by two levels of operators. The first level would be trained to capture the name and address for mail followup. If the caller's questions are more complex, the call would be transferred to a help desk. The help desk operators would be trained to answer more complex questions from a series of expected questions. EREG states that the information given will be "tightly scripted" and operators will not have the authority to discuss any issues outside of the guidelines. If the questions go beyond the scope of the expected questions, EREG proposes that the callers be referred to their local utility, the Energy Commission, or other entities as appropriate.

EREG also clarified that the information center will have a voice response unit at the front end of the system. The options available will be to listen to recorded messages which will have varied topics of interest to residential and business callers, to receive a fax back, to receive a brochure, or to speak with a live operator.

EREG also agrees with the comment of others that the EREG and Commission information centers be one and the same. EREG hopes to work with the Consumer Services Division to collaborate on the design, staffing, and operation of the information center to meet their shared goals. EREG also believes that a transition plan should be developed in conjunction with the Consumer Services Division and implemented during the last few months of the EREG, which would include the transfer of responsibility to the Commission and possible expansion of its capabilities to serve customers of all other utility industries.

Discussion

The proposed CEP calls for DDB Needham to manage the toll-free call center, and to fulfill the requests of the customers who want additional information. Some of the parties have suggested that the Commission staff or the EET take on this responsibility. We decline to accept this suggestion. The Commission staff and the EET do not have the time and resources to secure the necessary equipment and office space, hire and train operators, and manage this kind of operation. All of these

things must be completed in the next month or so. Accordingly, we approve the use of DDB Needham or its subcontractors to manage the call center on behalf of the IOUs.

With respect to the training of the call center operators, DDB Needham should be responsible for those efforts by using independent experts to develop the training materials. The training materials are to be reviewed by the Energy Division prior to their use. The IOUs and the Commission staff should make themselves available as a resource during the training sessions in case questions arise. The IOUs should ensure that DDB Needham monitors the quality of the call center operators' responses to ensure that it is in accordance with the training that the operators will receive.

The IOUs and DDB Needham need to ensure that the call center is capable of handling questions in different languages. Having two levels of operators also makes sense given the possible complexity of the questions. However, the more complex questions should be referred to the utilities or to the Commission. The Consumer Services Division and the Energy Division should coordinate with the utilities to determine responsibility for answering more complex questions. As for the hours of operation, there is no need for the call center to operate on a 24-hour basis. Instead a 13- or 15-hour schedule should be adopted. Depending on the time slots that are purchased for television spots, there could be a need to rearrange the hours of operation of the call center. Use of prerecorded messages on selected topics should also be used, however, care must be taken to ensure that callers are able to access a live operator. The delay in answering an incoming call needs to be minimized as well.

We shall also require the IOUs to ensure that the toll-free call center maintain a daily log of incoming calls. This log will form the basis of a monthly report to the Commission. The log shall report the following: (1) total number of calls received; (2) number of calls answered by a call center operator; (3) number of calls utilizing the prerecorded messages on electric restructuring; (4) if available, the type of prerecorded topics accessed by callers; and (5) number of questions received in each particular subject category. This monthly log information shall be delivered to the Directors of the Consumer Services Division and the Energy Division beginning on the

15th day of the month following the startup of the call center's operation, and on the 15th day of each month thereafter. This monthly report shall report on the preceding calendar month's log activities.

Toward the end of the CEP's life, the Commission will need to decide whether the call center needs to be continued. We will explore this further in the first quarter of 1998 by requiring the Consumer Services Division to file its recommendations concerning the continuation of the call center activities at the Docket Office on or before January 30, 1998. Parties will have an opportunity to respond to such a filing. We agree with the comments that suggest the Commission's toll-free number, which allows consumers to access information regarding the registration status of an ESP, should be linked to the call center so that consumers need to know only one telephone number. This would avoid unnecessary public confusion.

The call center shall be referred to as the "Electric Education Call Center" by the call center operators. Any CEP materials sent out to the public in response to an incoming call shall also be identified as originating from the Electric Education Call Center, and carry the approval legend of the Commission.

Agency Compensation

The proposed CEP budgets \$12,960,000 for agency compensation and reimbursable expenses (agency compensation). This amount is 14.81% (15%) of the proposed CEP budget of \$87,500,000.²¹ (See Appendix A.) However, if the following four budget items are subtracted from the proposed CEP budget of \$87,500,000 so as to calculate the proposed agency compensation as a percentage of the items that DDB Needham is directly involved in, excluding agency compensation, then the agency compensation represents 18.13% of \$71,490,000: CPUC outreach of \$2 million; EREG

²¹ The proposed CEP budget of \$87.5 million did not include the \$3 million that was authorized in D.97-03-069 for the EET. Had the \$3 million been added to the \$87.5 million, agency compensation would represent 14.3% of the total CEP effort including the EET.

expenses of \$850,000; CEAP administrative support of \$200,000; and the agency compensation of \$12,960,000.²² (See Appendix A.)

Since the discussion in this decision reduces the overall CEP amount from what was requested in the proposed CEP, the agency compensation budget should reflect the overall change as well since agency compensation is related to the size of budget that it is handling. For that reason, we have calculated the agency compensation at 18.13% of the total authorized budget excluding the four aforementioned budget items. Thus, agency compensation is budgeted at \$11,279,580 ($\$62,215,000 \times .1813$). According to the latest EREG monthly report to the Commission, the agency “master contract” was still being negotiated. We expect that the final master contract with DDB Needham to approximate the agency compensation percentage reflected in the proposed CEP as discussed above. That does not mean, however, that DDB Needham’s agency compensation should be \$11,279,580, it could be negotiated lower.

Relationship to Other Education Programs

Proposed CEP Schedule

In the proposed CEP, the implementation of the Phase II mass media effort is to begin in September. That effort will discuss the changes taking place in the industry, while distribution of the base level information does not begin until Phase III, which is scheduled to begin at different times in October depending on the target audience.

Some of the prospective energy providers would like to see the CEP schedule moved up. They point out that the advertising campaigns of some of the ESPs has already begun, or will precede the CEP effort. They fear that if the information from the ESPs precedes the CEP materials, customers may become confused.

One of the commenting parties recommends that the Commission establish basic guidelines to ensure that alternative or utility-specific education

²² It is our understanding that the standard margin for advertising agency compensation is approximately 17.65% of the total advertising budget.

programs provide only permissible messages and materials, and that such programs be precluded from denigrating other ESPs.

We decline to revise the current CEP schedule. The schedule cannot be advanced given the time constraints needed to review and approve the CEP messages beforehand.

Any potentially confusing or misleading advertisements are likely to be responded to by other competitors' advertisements, or resolved by consumers once they are educated by the CEP. We do not believe that there is a need to regulate the advertisements of potential market competitors.

Coordination with Commission's Consumer Outreach Plan Effort

In D.97-03-069, the Commission directed the Energy Division and the Consumer Services Division to prepare a staff report detailing the types of outreach activities that the staff can undertake, and which can be coordinated with the efforts of the utilities' joint CEP. The Commission designated \$2 million for this outreach effort. On May 12, 1997, the staff filed a joint report entitled "Staff Report On The Commission's Consumer Outreach Plan" (staff report).

The staff report points out that the various units of the Commission have already contributed to the ongoing public education and information effort about electric restructuring through written materials, a video, speeches, phone and personal contacts with the press, legislators, and outside stakeholders, and the electric restructuring category on the Commission's Internet web site. In addition to those ongoing efforts, the staff plans to do the following:

- Continue to communicate about the Commission's decisions so as to provide further guidance and standards for implementing electric restructuring.
- Provide the public with access to the Commission's database of registered ESPs over the Commission's web site, and through a toll-free number.
- Provide advance information regarding electric restructuring to the media, elected officials, other community decision makers, and consumers before the September roll-out of the CEP so that people are aware of the issues.
- Obtain external consumer/community outreach and education resources to enable the staff, in consultation with the CEAP, to develop and deploy an effective consumer outreach effort to complement the joint CEP.

- Possibly utilize the following consumer outreach techniques: distribute a Commission consumer information packet; make electric restructuring materials available at all public meetings attended by the Commissioners or Commission staff; include materials in appropriate Commission mailings or outreach activities; develop a bill insert to prepare customers for the upcoming CEP; expand the Commission's electric restructuring web site; provide a toll-free number for electric restructuring consumer information and education; operate and promote a Commission electric restructuring consumer information speaker's bureau; distribute and promote a Commission electric restructuring consumer information press kit; and author and promote an electric restructuring consumer information column series for print and electronic media.

Interested persons were provided with the opportunity to comment on the staff report. The only filed comments to the staff report were from The Greenlining Institute (Greenlining) and the Latino Issues Forum (LIF). The EREG did not file formal comments to the staff report, but individual members of the EREG did provide comments. Those individual comments were transmitted to the assigned Commissioners in a letter dated May 22, 1997. The CEAP also commented on the staff report in a July 3, 1997 letter to the Executive Director.

Greenlining and LIF favor the proactive approach of the staff's Consumer Outreach Plan, but commented that the plan must be strengthened with respect to low-income, limited or non-English speaking, and unsophisticated consumers. They also feel that the plan should be integrated with the EET, which should be funded at a minimum of \$50 million.

Greenlining and LIF suggest that the consumer information packet include detailed information on consumer protection, such as who to contact regarding questions or complaints, and on the public purpose programs, such as the low-income rate and energy efficiency assistance programs. The information provided in the packet, as well as in the press kits, must be available in multiple languages in order to reach the target audiences. To distribute these information packets, Greenlining and LIF recommend that the Commission work closely with CBOs. The use of bill inserts is also a good idea, provided that the information be provided in multiple languages with

information on how to obtain additional information from language-appropriate operators.

Greenlining and LIF point out that the Internet is a good vehicle to reach more affluent consumers, but will not be utilized by customers with lower incomes who do not have access to the Internet.

With respect to the toll-free number proposed by the Commission, Greenlining and LIF state that this is an excellent way to meet the demand for reliable and unbiased information. However, they recommend that the Commission plan to ensure that this operation have the capacity for fielding calls, training staff, and handling calls from non-English speaking consumers.

Greenlining and LIF favor the use of a speaker's bureau to help educate the public. They state that the speaker's bureau should provide training in multiple languages, and that the speaker's bureau be directed to reach vulnerable groups. Similarly, the plan for an electric restructuring column should appear in non-English print media, and include a question and answer section.

As a result of the filed comments and the informal comments of others, the staff filed a revised staff report on the Commission's Consumer Outreach Plan (revised staff report) on July 14, 1997. Some of the changes in the revised staff report are as follows:

- (1) Staff agrees with the comments that it is in a position to prepare education strategies and materials in response to the upcoming consumer protection decision, and other significant electric restructuring issues. The staff's outreach plan will include educating consumers about relevant consumer protection measures and other policies adopted by the Commission or by statute. The staff also plans to consider the input from the CEAP, and will coordinate the Commission's outreach efforts with the CEP and the EET.
- (2) The CEAP noted in its comments that the Commission has certain unique elements. These elements should be used to narrowly focus the staff's outreach efforts. The staff plans to focus its outreach efforts on enhancing the Commission's ability to communicate with various groups and organizations, including the following:
 - The Governor's Office
 - The California Legislature
 - Other offices of the state and federal government

- Governmental advocacy groups
 - Local government offices
 - CBOs in conjunction with the EET or EREG
 - The media, academics, and think tanks
 - Professional trade and business associations
 - Foreign government representatives.
- (3) Public outreach techniques will use a variety of communications tools which can be used at various Commission-related events and activities. Since many consumers do not have computers, a toll-free, multilingual telephone service should be established so that consumers can inquire about the registration status of non-utility ESPs. This toll-free registration status service should be incorporated into the call center functions that are proposed as part of the CEP.
 - (4) The staff's outreach efforts should proceed in accordance with the schedule set forth in the initial staff report because of the need to be responsive to inquiries from consumers.
 - (5) The Commission's outreach Project Manager will ensure coordination between the Commission's outreach activities with the activities of the CEP and the EET so as to minimize unnecessary duplication.
 - (6) The CEAP has proposed that the EET's activities commence prior to March 1998 so that the EET can focus on outreach to CBOs and small businesses. Regardless of whether the EET or the EREG leads the community outreach effort, the Commission should be prepared to assist in that effort, and assume the lead role in community outreach when the EET or EREG has expired.
 - (7) The primary activities of the staff's outreach plan should be implemented for a minimum of one year.
 - (8) External resources will be needed to develop and deploy an effective consumer outreach effort. These resources will be paid for out of the \$2 million allocated for the Commission's outreach plan.

Discussion

We find merit in the staff's suggestion that consumers be provided with advance information about electric restructuring directly from the Commission. The most logical method to accomplish this is by way of a bill insert. This bill insert should describe that the Legislature and the Commission have authorized direct access to occur beginning on January 1, 1998, and that many changes will occur as a result of restructuring. The insert should also state that the Legislature has authorized the

utilities to develop a CEP in conjunction with the Commission, and that the CEP is subject to the approval of the Commission. The insert should also advise consumers that they will see or hear Commission-approved CEP messages as part of the CEP. We shall delegate the task of preparing this bill insert to the Energy Division, in consultation with the Commissioners and the Public Advisor's office. Given the time constraints, this bill insert shall be prepared and approved by way of ruling no later than 30 days from the effective date of this decision. All investor-owned electrical corporations, including the small and multi-jurisdictional utilities with the exception of Kirkwood, shall be required to include this bill insert in their respective monthly billing cycles as soon as practicable.

The staff proposes to conduct outreach efforts with the CBOs in conjunction with the EET. As discussed earlier, the EET should lead the CBO and grassroots efforts. Should the EET require assistance, the staff could assist the EET in its outreach efforts with the CBOs.

The staff should continue to coordinate with the utilities in implementing the CEP, especially with respect to coordinating the call center and the toll-free ESP status number. With respect to the staff's outreach with professional trade and business associations, some of those contacts may be more in the nature of public relations efforts which the lead public relations agency can handle. The staff should coordinate possible overlapping outreach activities with the lead public relations agency.

We approve the activities contained in the staff report and the revised staff report, with the clarifications as noted above. The staff is authorized to begin these activities immediately. The staff should ensure that its activities are coordinated with the efforts of others.

Relationship to the Utilities' Education Efforts

In the June 6, 1997 Assigned Commissioners' Ruling, the following question was posed:

"1. In the proposed CEP, what will the role of the utilities be?

a. ...

b. How will the utilities' CEPs differ from the EREG's CEP efforts?"

PG&E states in its comments that there will be little direct involvement by PG&E in the CEP. PG&E plans to undertake limited activities that are independent of, but complementary to, the CEP activities. PG&E's activities will reinforce and support the CEP messages. PG&E states that it has already implemented three shareholder-funded efforts which will precede the CEP efforts.

PG&E also plans to provide some utility-specific direct access information which PG&E believes is outside the definition of a CEP. PG&E plans to include the cost of these activities for tracking and review as authorized in Ordering Paragraphs 8 and 9 of D.97-05-040. Of its planned direct access communications, PG&E may provide customers with general information about the basic change in electric utility bills with an emphasis on explaining the CTC. PG&E also anticipates a need to provide customers with more detailed, specific information about changes to the monthly bill, and about issues such as procedures for releasing information and signing up to become a direct access customer.

With respect to educational efforts by the utilities, whether paid for by ratepayers or by shareholders, some of the parties assert that the Commission must ensure that the utilities' CEPs are neutral, objective and clear so as to guard against an abuse of the utilities' market power.

Discussion

If shareholders are separately funding marketing materials pertaining to electric restructuring, and that material is not contrary to any Commission decision, order, or ruling, the utilities are free to engage in this kind of marketing. Educational efforts which amount to a utility-specific CEP require prior Commission approval.

EET Effort

As mentioned above, some of the commenting parties believe that there is a need for continuing education well beyond the termination date for the EREG effort.

In order to meet this need, these parties believe that a larger percentage of the budget should be allocated for the EET effort, and that an expensive up-front effort is not entirely needed.

Discussion

We recognized in D.97-03-069 that there is a need for some form of continuing education even after direct access begins on January 1, 1998. We also stated that the EET “will overlap somewhat with the CEP, and build upon what the CEP has done.” (D.97-03-069, p. 8.)

As discussed earlier, we believe that the EET should manage the implementation of an expanded CBO-based education and outreach effort designed to educate customers about electric restructuring. This is entirely separate from the scope of work that DDB Needham plans for its grassroots and community efforts. We have set the funding for this CBO-based effort at \$10 million dollars. The EET shall develop plans for a CBO-based outreach effort aimed at educating the public about electric restructuring over a sustained period of time. Such an effort should take advantage of, and follow closely on the heels of the consumer education efforts of the joint CEP. This effectuates a change in the balance between the use of mass media and the use of CBOs and other community and grassroots organizations. We authorize funding for a separate, stand-alone CBO effort of \$10 million while reducing the funding for the mass media aspects of the CEP by \$8 million. We also maintain the short-term grassroots and community efforts of the IOUs at a reduced budget level of \$4 million.

This enhanced CBO educational outreach plan is consistent with the EET’s charge “to promote consumer education about the changes to the electric industry,” and to “target those customer groups and communities where direct access participation remains low.” (D.97-03-069, p. 50.) Since the EET has been given new and immediate duties, we authorize the EET to begin all necessary work to take on the responsibilities of designing and managing this expanded CBO educational outreach effort. The EET is also authorized to retain an entity or entities to design, develop and administer this program. The EET, as an advisory body to the Commission, should use the procurement and contracting rules required by state law.

We will authorize the EET to expend funds of no more than \$500,000 from the \$10 million that we have designated for this CBO educational outreach effort, for expenditures related to the cost of retaining a consultant, and to design and develop such a plan. However, before the expenditure of any CBO program-related funds, i.e. funds for the actual CBO effort, the Commission must approve by way of decision, the proposal by the EET for a CBO-based educational outreach plan.

We direct the EET to begin this effort as soon as possible. We expect the EET to develop a comprehensive and well conceived proposal for a CBO educational outreach effort as soon as possible. The EET will file with the Commission a detailed proposal for a CBO educational outreach plan prior to the funding of any CBO or other grassroots organization. The filing of such a plan shall occur no later than October 15, 1997. Since this scope of work was not originally contemplated when D.97-03-064 created the EET, the plan should be submitted along with a revised work plan, and revised budget.²³ Interested parties may file comments on the proposal, revised work plan and budget as provided for in this order.

Our goal is to have this CBO outreach plan in place no later than March 31, 1998. As stated earlier, this delay is necessitated by the state's procurement rules which affect advisory bodies, such as the EET. During this lag, communities and other hard-to-reach audiences will not go unnoticed. In addition to the mass media, direct mail, bill inserts, the call center number, and other activities, hard-to-reach audiences will also be targeted by the \$4 million community and grassroots effort of the joint CEP.

Since the CBO educational outreach effort is two and a half times the size of the community and grassroots component of the CEP, the CBO effort will be well positioned to focus its efforts on those constituencies and communities that are

²³ Ordering Paragraph 10.h. of D.97-03-069 requires the EET to file a proposed, detailed work plan and budget no later than August 1, 1997.

harder to reach through traditional methods. We envision this effort as a means of allowing the CBOs to play a more active role in the education process of its constituents. Certainly, the role of the CBO in this educational outreach effort goes beyond what was contemplated by EREG for these kinds of organizations. Since we have the responsibility to approve all of the CEP materials, all of the materials developed by the EET or the CBOs will be subject to our approval before they are disseminated. The Commission in its review of such materials, plans to review the materials to ensure that the message is accurate, unbiased, neutral and does not advocate the policy position of the CBO. To the extent that previously approved CEP materials are utilized, no additional approval is required.

The Director of the Consumer Services Division will be directed to appoint a staff liaison person to work with the EET regarding the CBO educational outreach effort. To the extent possible, the EET should rely on the resources of the Commission in planning and carrying out the activities of this educational outreach plan.

The EET is budgeted \$10 million dollars for the CBO-based aspects of this project. In addition the EET retains its original \$3 million dollar funding level that we authorized in D.97-03-069, and as shown in the Revised Budget Summary in the conclusion section of this decision. This \$3 million dollar funding level should be used to fund the administrative and general overhead expenses of the EET and may be used to fund specific customer education efforts that do not employ the use of a CBO or other grassroots organization. (See D.97-03-069, pp. 38-39.) The decision whether the EET should take over and continue some of the educational efforts currently being undertaken by the joint CEP beyond May 1998, or to develop other efforts, will be left to a future Commission decision deciding the scope of work and the budget of the EET.

The members of the EET, the organizations they represent, and any entity they have a financial interest in, may not bid for a contract to manage or administer any portion of the EET's efforts, nor may the organizations they belong or have a financial interest in, be the recipients of any funding through the EET. This is necessary to avoid conflicts of interests and to ensure that the EET management of the

CBO educational effort maximizes consumer education rather than furthering one's pecuniary interest.

Dissolution of the CEAP

The CEAP was created for the purposes of assisting “the Commission in the evaluation of the joint CEP, and to provide input into the development of the Commission’s own outreach plan.” (D.97-03-069, p. 24.) As discussed earlier, the CEAP has completed both of those tasks.²⁴ Many of the CEAP’s comments and ideas have been incorporated into this decision.

Having completed its mission, we believe that the CEAP can now be dissolved. The contributions and input of the CEAP members have been an invaluable part of our evaluation process of the proposed CEP. We wish to acknowledge their efforts, and to thank them for their service. We will direct the Executive Director to prepare resolutions thanking each of the CEAP members for their work. We also welcome their further input and participation should they decide to do so. Those CEAP members who have not already been appointed to the EET, may write a letter to the assigned Commissioners, with a copy to the Executive Director and the assigned ALJ, expressing their interest in serving on the EET. Such a letter shall be mailed to the assigned Commissioners within 15 days from the mailing date of this decision. As noted earlier, the Commission will decide whether the EET should be enlarged.

Since the proposed CEP included \$200,000 as part of the administrative support for the CEAP, we will approve that budget item with the understanding that this amount is to be used to pay off any outstanding claims by the CEAP members for per diem, and travel and lodging reimbursement. Should there be money left over after these expenses are paid, it is our intention to make the remaining portion of the \$200,000 available to the EET should it be needed.

²⁴ To the extent that the Commission may need further input into the Commission staff’s outreach effort, the input of the EET could be solicited for this purpose.

EREG Administrative Details

Compensation Plan

In response to the June 6, 1997 ACR requesting information about approval of a compensation plan for EREG members, the EREG replied as follows to the question of how EREG now defines a meeting:

“Given the complexity and the magnitude of EREG’s challenge, extraordinary efforts have been and will be undertaken by EREG board members to achieve a successful Consumer Education Plan. For example, EREG members were personally involved in developing and managing the process of selecting the lead agency and developing the draft CEP. EREG members are also engaged in negotiating and drafting contracts, as well as coordinating the activities of the participating utilities, other CPUC groups, the lead agency and the fiscal agent with regard to soliciting input or information, preparing and presenting it to the EREG board or CPUC for consideration, then implementing decisions in a timely manner. Were it not for the individual efforts of several key EREG members, it is doubtful that the EREG could have met the CPUC’s established timelines.

“In order to compensate eligible EREG members for their extraordinary contribution to this effort, time they spent away from other income-producing activities, a compensation formula was developed which recognizes time spent attending meetings and time spent on authorized EREG activities between meetings. ‘Meeting’ is defined in the EREG’s fiscal policies and procedures as any scheduled meeting by the body which the EREG member is required to attend, whether in person or by phone. Eligible members who attend meetings are compensated \$300 per meeting, regardless of how many hours the actual meetings takes. (A typical EREG board meeting extends from 9:30 a.m. to 4:30 p.m.) All other EREG authorized activities are recorded in no less than quarter-hour increments, with every four hours constituting a ‘meeting’. Employees of the state, utilities and energy providers are not compensated for meetings.

“This definition of ‘meeting’ has been made by the EREG in recognition of the fact that EREG members, eligible for compensation, need to be adequately compensated for the time and expertise they devote to EREG matters. Consequently, ‘other EREG authorized activities’ shall be defined as those activities assigned or required by the full EREG or EREG committees to complete their tasks such as contract negotiations, pre/post meeting preparation

and follow-up action items such as preparing the monthly report to the CPUC.

“It is important to recognize that most of the EREG members eligible for compensation are senior management of Executive Directors of the diverse stakeholder organizations they represent, or self-employed as independent consultants. If they were hired as consultants, they would charge \$150-\$250 per hour. Acknowledging the skills and expertise of the Board members through reasonable compensation has been essential to the success of the CEP.”

The ACR also requested information about how EREG members are to be compensated, and who keeps track of who is being compensated and the number of hours or meetings that the EREG members spend on EREG-related work. The EREG responded that no EREG board member is compensated for time or reimbursed for expenses without proper documentation and approval of an EREG officer. Eligible EREG members are compensated for time spent in meetings at the rate of \$300 per meeting, and \$75 per hour for other EREG-authorized activities. EREG members must first submit an official EREG timesheet, and obtain approval from an EREG officer. EREG’s board Manager keeps individual records of hours worked and compensation sought by the board members. The entire EREG board reviews the monthly financial report to make sure that compensation continues to be reasonable and appropriate. In the monthly report to the Commission, information regarding the per diem compensation and the expenditures of the EREG are provided.

One of the parties commented that there should be reimbursement for individuals and organizations that give their time and efforts to serve the public. However, due to the increasing demand for Section 376 cost recovery, the party urges a careful and cautious examination of appropriate activities for reimbursement.

Discussion

We raised the question of the per diem compensation plan because of our concern that the level of per diem could quickly increase and get out of control, especially in light of the number of EREG members eligible for per diem. After reviewing the monthly reports of the EREG, attending the EREG presentations, and

receiving feedback from the Energy Division liaison to the EREG, we are satisfied with the EREG's response that the EREG members should receive per diem for those hours that they had worked on EREG-related meetings.

A similar issue is likely to come up with the EET. The EET should draft up clear per diem and reimbursement policies, and include it as part of its revised budget and funding request for the Commission's review. However, no per diem beyond what was discussed in D.97-03-069 is authorized at this time.

Financial Arrangements

The June 6, 1997ACR also requested the EREG to provide information about the fiscal agent that EREG retained, and the financial audits mentioned in the proposed CEP. EREG provided the following information. The EBCF is the fiscal agent for the EREG. The contract between the EREG and EBCF provides that the EREG funds are to be held in a separate account, and is subject to audit by the EREG and/or the Commission at their discretion. The EBCF is also audited annually. This annual audit reviews and tests EBCF's financial statements. The EREG fund will be included as part of this annual audit.

EREG plans to retain the same EBCF auditor, or another accountant to be agreed upon by the EREG and/or the Commission, to conduct a separate audit of the EREG fund at the end of the project. EREG's proposed budget anticipates retaining the EBCF auditor to conduct this audit. If another independent auditor is chosen, EREG estimates that the cost would probably be higher.

EBCF provides monthly reports of the revenue and expenses on behalf of the EREG to the EREG's board Manager. These reports are compared with the EREG records, discrepancies reconciled, and a full report is approved by the EREG board. This report is included in the monthly report to the Commission.

EREG also mentions that the contracts between EBCF and DDB Needham require that DDB Needham manage the EREG funds in a separate account. These funds are subject to an independent audit by the EREG or the Commission. EREG also plans to require monthly financial statements and cash flow reports from the DDB Needham, since DDB Needham is the entity which will make disbursements to subcontractors and

vendors. EREG proposes to include the statements and reports from DDB Needham in the monthly report to the Commission.

Discussion

In organizing the EREG, the EREG evaluated whether it should incorporate as an independent entity or use the services of a fiscal agent. The EREG decided to use the services of a fiscal agent, and retained the EBCF for that purpose. The IOUs and the EREG, consistent with our earlier discussion, need to assess whether the contractual arrangement with EBCF should remain in place.

Since the utilities are now directly responsible for the oversight and management of the CEP effort, except for oversight of the CBO-based educational outreach effort, the IOUs shall adhere to the monthly reporting requirement contained in Ordering Paragraph 3.h. of D.97-03-069. In addition, we shall require the IOUs to have DDB Needham submit monthly financial statements and cash flow reports with respect to all CEP-related activities. These statements and reports shall be submitted as part of the IOUs' monthly report to the Commission.

With respect to an independent financial audit of the CEP-related funds, we shall defer that decision to a later time when the financial flow of the CEP monies has been worked out.

CEP Conclusion

As discussed in the sections above, we have made several changes with respect to the proposed CEP budget request. We find that the proposed work scope of the CEP, as contained in the proposed CEP and as discussed and clarified in this decision, justify the total CEP budget of \$89,294,580 as shown in the two following revised budget summaries. The first budget summary shows the subtotal for the utilities' CEP efforts.

Revised Budget Summary
Utilities' Customer Education Program
(Specific Line Item Allocation Not Included)

Public Relations	\$ 3,980,000
Mass Media	20,645,000
Production	4,895,000
Direct Mail	12,000,000
Informational Call Center	4,000,000
Collateral/Fulfillment	10,500,000
Small Business-additional	1,000,000 ²⁵
Web site	75,000 ²⁶
Grassroots Comm./Prom.	4,000,000
Research	1,120,000
Agency Compensation	<u>11,279,580</u>
Subtotal	\$73,494,580

The IOUs shall file a detailed Revised Budget Summary at the Docket Office within 20 days from today's date. The detailed summary shall include the budget line items within each budget category, as shown in the EREG Budget Summary

²⁵ In the detailed Revised Budget Summary, this additional amount should be apportioned to the relevant budget line items.

²⁶ We have reduced the web site expense by \$25,000. We agree with the comments of the CEAP that the overall cost of creating and maintaining the site should be less than the requested amount.

(Appendix A), and reflect the budget changes shown in the above Revised Budget Summary, and as discussed in this decision.

In the June 2, 1997 motion to adopt the proposed CEP, the EREG requested the flexibility to be able to move funds between the budget categories as necessary. We find that there is some merit in allowing some limited discretion. We have carefully considered the entire budget of the CEP, and the relationship of the individual pieces to our overall goals. We recognize the importance of being able to change individual components of the CEP in response to the ongoing monitoring results of the program. For that reason, the IOUs shall have limited discretion to move monies between the budget categories listed in the above Revised Budget Summary. However, the shift in monies cannot alter the budget category from which the monies are being taken by more than 3%. With respect to movement of the budget line items that are contained within each budget category (See Appendix A), a shift of not more than 5% will be permitted within each budget category. Should the IOUs require greater flexibility in shifting monies from one budget category to another, the IOUs shall be permitted to use the advice letter process to request such authority.

In authorizing the budget for the CEP, we remind the IOUs, DDB Needham and its subcontractors, that expenditures of monies in excess of this budget are not authorized. Even though the subtotal for the utilities' CEP is authorized at \$73,494,580, that does not mean that they should come as close to this budget level as possible. Instead, the IOUs, DDB Needham, and its subcontractors should strive to reduce the CEP costs as much as possible.

The second part of the revised budget summary shows the subtotal for the efforts of the Commission and the community-based educational outreach efforts in the amount of \$15.8 million.

**Revised Budget Summary
Commission and Community-Based Education and Outreach**

CPUC Outreach	\$ 2,000,000
EREG Admin./Operations	350,000
CEAP Admin. Support	200,000
CSD Research	250,000
EET	3,000,000
EET-CBO Effort	<u>10,000,000</u>
Subtotal	\$15,800,000
TOTAL CEP BUDGET	\$89,294,580

We will grant the June 2, 1997 motion to approve the CEP as modified by our discussion in this decision. The total amount authorized for the joint CEP effort is \$89,294,580. Twenty-three million dollars of this \$89,294,580 was previously authorized in D.97-03-069.²⁷ We will authorize the remaining \$66,294,580 ($89,294,580 - 23,000,000$) to be tracked in the memorandum accounts of PG&E, SDG&E, and Edison that were established pursuant to D.97-03-069, and will permit SCWC to establish similar memorandum accounts as well, and to track those amounts. Subject to our potential disallowance mechanism for failing to meet the aided awareness target of 60%, the costs allocated to these utilities shall be recoverable from their respective customers pursuant to Section 376.

²⁷ In D.97-03-069, the following amounts were authorized as part of the total educational effort: (1) \$20 million for the CEP of which \$2 million is for the Commission's outreach efforts; and (2) \$3 million for the EET.

Reasonableness of the Additional Budget Amounts

Edison requests that in approving the proposed CEP, the Commission also extend its finding on the reasonableness of the additional funding amounts that are approved. Edison contends that because interested parties have been afforded the opportunity to comment on the proposed CEP and to challenge the proposed expenditures in advance of any significant expenditure of funds, the opportunity to challenge the CEP expenditures after the fact should be substantially limited. Edison also points out that because it is only one member of the 19-member EREG, it does not have control over the actions of the EREG. The regulated utility must not be held individually responsible for the actions of the 19-member EREG board.

ORA is opposed to Edison's request that the finding of reasonableness be extended to any additional amounts that are approved. ORA contends that anyone should be able to question the reasonableness of the expenditures by the EREG on behalf of the utilities.

Discussion

We agree with ORA that the Commission should not make a finding that the additional amounts authorized by today's decision are reasonable. It is premature to do so. As discussed earlier, we have established a procedure to measure the success of the CEP effort. If the aided awareness goal of 60% is not met, we will initiate a proceeding to address the possible shortcomings of the CEP effort. To ensure that the aided awareness goal is met, we should refrain from making a finding of reasonableness with respect to the total CEP budget amount until after the overall aided awareness level has been reviewed.

Modification of D.97-03-069

The Commission authorized the formation of the EET in D.97-03-069, and directed the Executive Director to appoint the members to the administrative committee of the EET. The intent of D.97-03-069 was to create the EET as an advisory body to the Commission. (See D.97-03-069, pp. 36-39; ACR, July 3, 1997, p. 2.) However, in Ordering Paragraph 10.j. of D.97-03-069, the following was stated:

“The funding level for the EET is initially authorized at \$3 million. Any request for monies in excess of the initial authorization of \$3 million shall be filed as a motion by the investor-owned utilities on behalf of the EET with the Commission, and served on all the parties to this proceeding, who shall have 14 days from the date of service to file written comments.”

Since the EET is an advisory body to the Commission, the provision in the above-quoted passage that refers to a motion being filed by the investor-owned utilities on behalf of the EET is not required. Instead, the EET should be permitted to file its own motion if it needs to request additional funding in excess of the previously authorized level. Accordingly, the second sentence of Ordering Paragraph 10.j. should be modified by deleting the words “investor-owned utilities on behalf of the EET” and replacing it with “EET.” Thus, the second sentence, as modified, would read: “Any request for monies in excess of the initial authorization of \$3 million shall be filed as a motion by the EET with the Commission, and served on all the parties to this proceeding, who shall have 14 days from the date of service to file written comments.”

In a letter from the California Municipal Utilities Association (CMUA), the CMUA recommends a slight language change be made to page 8 of the proposed CEP. CMUA recommends that in the line labeled “2”, the phrase “multiple companies selling electricity” should be changed to “multiple providers selling electricity” to reflect the fact that some of the aggregators and some of the utilities are likely to be public agencies or non-profit organizations, and not “companies.” Since the EREG pulled this desired message from page 27 of D.97-03-069, that decision should be modified to make this recommended change.

Modification of D.97-05-040

In D.97-05-040, we adopted a registration process for ESPs who plan to offer electric service to residential or small commercial customers. Appendix B of that decision was adopted as the registration form. When we were designing the registration form, we overlooked the fact that municipally owned electrical corporations or irrigation districts might register as ESPs. Accordingly, Appendix B of D.97-05-040 should be modified to include in the “Type of Ownership” section, a category entitled “Government Entity” to capture this type of ESP. The Commission

staff is directed to make this change on the registration form. A sample of the revised form is attached hereto as Appendix B.

Findings of Fact

1. D.97-03-069 adopted the joint proposal of PG&E, SDG&E, and Edison to devise and implement a joint CEP.

2. D.97-03-069 approved the plan of the three utilities that they appoint the EREG to provide oversight for the development and implementation of the CEP on behalf of the IOUs, and that the EREG retain a consultant to develop and implement the CEP messages.

3. The three utilities, on behalf of the EREG, filed a motion on June 2, 1997 for the Commission to approve the proposed CEP.

4. SCWC's motion to participate in the joint CEP was granted in an ALJ ruling of June 6, 1997.

5. PacifiCorp, Sierra Pacific, SDG&E, and PG&E filed separate pleadings regarding the implementation of separate customer education programs, which have been addressed in a separate Commission decision.

6. D.97-03-069 authorized the Commission staff to develop outreach plans as part of a coordinated CEP effort.

7. The Energy Division and the Consumer Services Division filed a staff report on May 12, 1997 which describes the kinds of outreach activities the staff could undertake.

8. A revised staff report was filed on July 14, 1997.

9. The CEAP was authorized in D.97-03-069 to assist the Commission in the evaluation of the joint CEP, and to provide input into the development of the Commission's outreach efforts.

10. The CEAP submitted its report to the Commission on July 14, 1997, and met with members of the Commission in public meetings on July 14, 1997 and July 16, 1997, to discuss the CEAP report.

11. The proposed CEP recommends a total budget of \$87.5 million.

12. The CEAP Report concludes that education efforts can begin immediately, but the proposed CEP must be modified in a number of different areas.

13. AB 1890 directed the Commission to authorize direct transactions between electricity suppliers and end-use customers.

14. Direct access is to be made available to all on January 1, 1998.

15. The various comments that we received provide constructive input on what others believe the CEP should contain.

16. The proposed CEP contains sufficient detail as to the resources that have been arranged to carry out the CEP.

17. The proposed CEP provides direction as to who the target audiences are, the general topics to be covered by the messages, and how the CEP effort will be measured.

18. The proposed CEP discusses the types of communications tools it will use to convey the messages, and provides an overall budget for the CEP effort.

19. The purpose of direct access is to offer all customers a choice in selecting their electric provider.

20. Direct access will be successful only if sufficient numbers of electric customers participate in this new market structure.

21. Industrial and large commercial customers are more likely to understand the ramifications of what electric restructuring means to their companies.

22. New entrants are already seeking to capture a share of the market as evidenced by recent newspaper ads.

23. In order for residential and small to medium commercial customers to benefit from direct access, these customers need to be informed about what electric restructuring means to them.

24. Customers must overcome the share of mind of the incumbent utilities so that they can entertain the idea of switching from the existing monopoly provider to another provider.

25. Due to the previous electric monopoly structure, most consumers are used to and comfortable with the idea of receiving electricity from the incumbent utility.

26. In order to overcome this share of mind, the CEP must educate customers about what restructuring means to them, and what choices are available to them.

27. Only through highly visible messages and constant reinforcement will consumers have the opportunity to enhance their awareness of the CEP, and to obtain the information they need to understand the implications of direct access.

28. Once customers are educated, the power of this information will allow customers to overcome their incumbent utility share of mind.

29. In determining how large the CEP should be, a consideration should be the cost of failing to adequately educate customers, versus the cost of the CEP.

30. The CEP is different from the other cited advertising campaigns because customers need to understand why a customer might want to switch, and what their options are.

31. The CEP represents a change in the overall regulatory structure and how the utilities and their competitors will do business, whereas Caller ID was a preexisting telephone service offered in other states, which encountered resistance in California because of privacy concerns.

32. The CEP involves different concerns for different target audiences, whereas in Caller ID the issue of whether customers wanted their numbers blocked affected everyone in the state in the same manner.

33. To ensure that customers have the information necessary to help them make appropriate choices regarding their electric service, the joint CEP needs to be implemented as soon as possible.

34. The CEP shall be implemented no later than September 1, 1997, and will continue until May 31, 1998.

35. EREG's proposal for a public symposium should not be adopted.

36. The CEP's purpose is not to make the subject matter of electricity more appealing to consumers, but rather to educate consumers about what electricity restructuring means to them, and what choices and options they have in the new regulatory environment.

37. In order to make people aware of the goals, the Commission needs to authorize sufficient monies so that this educational effort can take place.

38. Aided awareness represents the ability of customers to recall certain pieces of information that they were exposed to when prompted or coached by an interviewer.

39. Instead of attempting to educate the public on one discrete issue, as was the case in Caller ID, the CEP needs to educate the public on what the new industry structure means to customers, and what customers need to know in order to make informed choices.

40. Given the differences in the type and amount of information to be absorbed in Caller ID and in the CEP, aided awareness for the CEP is likely to be less.

41. Aided awareness is a function of reach, frequency, actual recall and memory, and consumer cooperation in reporting recall/memory to the researcher.

42. For aided awareness to occur, sufficient monies need to be allocated so that the messages can reach, be heard, and be remembered by all the target audiences.

43. Given the differences in the subject matter being communicated, spending more on the CEP than in Caller ID does not necessarily mean that the aided awareness target should go up as a result.

44. The proposed CEP's aided awareness goal of 60% is adopted.

45. The utilities shall ensure that the CEP meets, at a minimum, the 60% goal for the total of all of the target audiences.

46. The use of the term "target audiences" for the purpose of the disallowance mechanism shall mean the total of all residential customers, all small business customers, all special-needs customers, and all opinion leaders, as described at pages 10 and 11 of the proposed CEP.

47. The IOUs, through DDB Needham or its subcontractors, should conduct a monitoring study to measure the aided awareness goal of the CEP.

48. An independent monitoring study to measure the aided awareness goal of the CEP should be conducted under the direction of the Consumer Services Division.

49. The utilities and DDB Needham must aggressively conduct the customer research needed to develop and implement the messages.

50. A post-CEP measurement study should be done by the IOUs, or through DDB Needham or its subcontractors to assess how successful the CEP was.

51. Whatever messages and advertisements that are developed for the benefit of the utilities, those messages and advertisements must still be approved by the Commission.

52. Concerns about the content and neutrality of the messages have already been addressed through the broad cross section of representatives who serve on the EREG.

53. The review process of the Commission will assist in catching inaccurate or biased messages.

54. The CEP messages must remain as neutral and unbiased as possible.

55. To stimulate direct access by residential and small commercial customers, an extensive and thorough campaign is necessary to provide consumers with information so that they are made aware about the choices that they have.

56. Given the timely need to get the CEP materials into the hands of consumers, the review process for the CEP materials should involve only the Commission.

57. All approved CEP materials shall contain the approved legend.

58. It is imperative that the utilities take a more proactive role in the development and implementation of the joint CEP.

59. Disbanding the EREG at this time will result in efficiencies by reducing the unwieldy decision making process of the EREG so that quick turnaround decisions can be made by the utilities, and will give the utilities more direct management control over the lead agency.

60. The structure of the EREG could hinder, rather than facilitate the process.

61. Disbanding the EREG will eliminate any possible consumer confusion over the sponsorship of the CEP messages, and improve the development process for the CEP message.

62. Disbanding the EREG will improve the accountability of the utilities for the CEP.

63. The Commission lacked effective oversight and control of the EREG framework.

64. In light of the time, the process of screening and hiring the lead agency, and the work done to date, the utilities should retain the same lead agency and its subcontractors to complete the development and implementation of the CEP.

65. The proposed CEP includes in its proposed budget the costs of educating those customers who are in the franchise areas of the municipally owned utilities.

66. Care must be exercised in the development and dissemination of CEP materials in the service territories of the municipal utilities so that municipal customers are not misled about the availability of direct access in their area.

67. The proposed CEP's priority target audiences are residential customers, small commercial customers, special needs customers, and opinion leaders.

68. Special needs customers include low income customers, geographically isolated customers, multilingual customers, and physically challenged customers.

69. Many of California's electric customers are considered low-income households, and therefore qualify for energy discounts under the CARE program.

70. Many of the utility service customers in this state speak a primary language other than English.

71. Less than 6% of the proposed CEP budget is allocated for CBOs and grassroots educational outreach efforts.

72. The limited life of the CEP limits the effectiveness of CBO-based educational outreach efforts.

73. Since the CBO educational outreach effort will be expanded, the grassroots efforts should only be funded at \$4 million.

74. A transition period is likely to occur after direct access becomes available.

75. The EET should develop and implement a CBO-based educational outreach effort.

76. The CBO-based educational outreach effort managed by the EET should be funded at \$10 million.

77. The EET's role in developing the CBO educational outreach effort is consistent with its role to help customers understand the changes in the electric industry during the transition period to direct access.

78. The mass media portion of the proposed CEP should be reduced, and the EET should be authorized to design a CBO-based educational outreach effort for the Commission's approval.

79. Non-traditional methods of outreach may be a more cost-effective way of reaching and educating the target audiences.

80. The total proposed CEP budget which targets small businesses amounts to about \$3.7 million.

81. Small businesses make up a large segment of the state's electric customers.

82. Owners of small businesses lack the resources to actively investigate how they can reduce their energy costs.

83. More specific collateral materials could be developed for specific kinds of small businesses.

84. The budget for small businesses should be increased by \$1 million.

85. The proposed CEP recommends a mass media budget of \$28.645 million.

86. Mass media is an effective method of reaching a large number of consumers in a short period of time.

87. Radio and television can be used as tools to stimulate consumer interest in learning more about electric restructuring.

88. The marketing campaigns of other companies will reduce the need for the CEP's mass media spots.

89. The mass media expenditures should be reduced by \$8 million.

90. The proposed CEP recommends a public relations budget of \$5.23 million.

91. There is no need to build credibility for the EREG since the EREG is being disbanded.

92. In any media or public relations contact, it should be stressed that the Commission is responsible for oversight of the CEP messages and themes.

93. The Commission should take the lead with respect to any governmental relations.

94. The public relations effort needs to recognize the widespread media interest in electric restructuring.

95. The public relations budget should be reduced by an additional \$1 million in recognition of a reduced scope of work.

96. Because the size of the grassroots efforts has been scaled back, an additional reduction of the total public relations budget by \$250,000 is reasonable.

97. The proposed CEP budget for collateral/fulfillment amounts to \$10,500,000.

98. Videotapes are a user-friendly, non-traditional method of disseminating information.

99. The proposed CEP budget for direct mail is \$12 million.

100. Bill inserts should be used to help disseminate the CEP messages by stimulating the demand for more detailed information, and by providing information on selected electric restructuring topics.

101. The proposed CEP calls for the establishment of a toll-free call center to answer questions from consumers about electric restructuring , or to fulfill consumers' requests for more information.

102. The toll-free call center should be managed by the IOUs' lead agency or its subcontractors, on behalf of the IOUs.

103. The toll-free call center should be capable of responding to incoming calls in different languages.

104. The IOUs should be required to ensure that the call center maintains a daily log of incoming calls.

105. The IOUs should be required to submit a monthly report concerning the call center activity.

106. The call center and the toll-free registration status number should be linked so that consumers need to know only one telephone number.

107. The call center should be identified as the "Electric Education Call Center" and any materials sent to the public should be identified as originating from the Electric Education Call Center, and should carry the approved legend.

108. The current CEP schedule will not be revised given the time constraints needed to review and approve the CEP messages beforehand.

109. The Energy Division, in consultation with the Commissioners' and Public Advisor's offices, should develop a bill insert to advise consumers that the Commission has approved a statewide CEP to educate the public about electric restructuring, and that consumers will see or hear the CEP messages that have been reviewed and approved by the Commission.

110. The Commission staff should begin those outreach activities authorized by this decision.

111. The CBO educational outreach effort should take advantage of, and overlap with or follow closely on the heels of the joint CEP.

112. The EET should be authorized to begin all necessary work and expenditures of designing and managing the CBO educational outreach effort.

113. All the materials developed by the EET or the CBOs will be subject to the Commission's approval before the materials are disseminated.

114. The EET should draft up clear per diem and reimbursement policies and include them as part of their revised budget and funding request.

115. The CEAP has evaluated the proposed CEP and provided input on the Commission staff's outreach plan.

116. The CEAP should be dissolved.

117. The proposed budget for the CEP, as modified by the budget changes discussed in this decision, is justified.

118. The IOUs and DDB Needham shall have limited discretion to move monies between the budget categories and between budget line items.

119. The IOUs, DDB Needham and its subcontractors should strive to reduce the CEP costs as much as possible.

120. The total amount authorized for the joint CEP effort, Commission outreach, and the CBO-based educational outreach effort managed by the EET, is \$89,294,580.

Conclusions of Law

1. In order to provide a timely customer education program in advance of the implementation of the CTC, the IOUs and the Commission need to forge ahead to devise and implement the CEP.

2. With the framework of the proposed CEP, the comments that we received, sufficient safeguards, and further Commission direction, we believe there is sufficient information before us to approve the joint CEP on the terms and conditions as expressed in this decision.

3. The issues raised concerning the formation of the EREG and hiring of the lead agency are issues which should have been raised before, or in an application for rehearing of D.97-03-069 or of D.97-05-040, and we therefore decline to address those issues in this decision.

4. The Commission must ensure that the requested budget amount is justified.

5. Section 392(d) directs that the CEP be implemented by the utilities before the CTC takes effect.

6. The expectation that the utilities participating in the joint CEP shall ensure that the aided awareness target is met is reasonable given the Legislature's intent that electricity consumers be provided with sufficient and reliable information to be able to compare and select among products and services provided in the electricity market.

7. The failure of the utilities participating in the joint CEP to achieve the aided awareness target of 60% could cause us to disallow recovery of a portion of the monies that are in the memorandum accounts for the CEP.

8. The potential disallowance is justified because the utilities are obligated to provide their electricity customers with sufficient and reliable information, and since ratepayer monies are being used to fund the CEP, the utilities should be held accountable for how effectively the money is being used.

9. Access to any non-proprietary research conducted by DDB Needham or its subcontractors for the CEP shall be made available by the IOUs to any interested party.

10. It is the utilities' responsibility under D.97-03-069 and AB 1890 to devise and implement a joint CEP.

11. When Section 392(b) is read in context with Section 392(d), the conclusion we draw is that the Commission needs to approve all aspects of the CEP before the messages are disseminated to the public.

12. The utilities should be given more direct control over the CEP, especially in light of the disallowance procedure that we have established for the IOUs if they fail to meet their aided awareness goal.

13. Dissolution of the EREG does not mean that the IOUs should consider retaining a different advertising agency and different subcontractors to work on the joint CEP.

14. The utilities should investigate from a contractual point of view how the services of the lead agency and its subcontractors can be retained.

15. D.97-03-069 may be modified in the future as a result of adding additional members to the EET.

16. AB 1890's broad policy implication is that eventually all of California's electricity market should be opened to competition, including the service territories of the municipal utilities.

17. The Legislature in enacting Section 392(b) appears to have intended that some general kinds of information about electric restructuring reach all electric consumers in California.

18. The EET is an advisory body to the Commission, and therefore must adhere to certain guidelines.

19. The IOUs are free to engage in shareholder-funded marketing efforts pertaining to electric restructuring so long as the material is not contrary to any Commission decision, order, or ruling.

20. The Commission must approve the EET's proposal for a CBO educational outreach plan before any expenditures are made for the actual CBO effort.

21. The members of the EET must avoid possible conflicts of interest with respect to the CBO educational outreach effort.

22. The Commission is refraining from making a finding of reasonableness with respect to the total CEP budget amount until after the overall aided awareness levels have been reviewed.

23. Since the EET is an advisory body to the Commission, ordering paragraph 10.j. of D.97-03-069 should be modified to delete the reference to the motion being filed by the IOUs.

24. Page 27 of D.97-03-069 should be modified to reflect the fact that providers of electricity could encompass public agencies or non-profit organizations.

25. Appendix B of D.97-05-040 should be modified to include a category for the registration of a government entity.

O R D E R

IT IS ORDERED that:

1. The motion of Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company, as well as Southern California Water Company (SCWC) by virtue of the June 6, 1997 Administrative Law Judge's (ALJ) ruling granting SCWC's motion to participate in the joint education effort (collectively referred to as "investor-owned utilities" or IOUs) on behalf of the Electric Restructuring Education Group (EREG) to approve the Customer Education Plan (CEP), is granted to the extent set forth and clarified in this decision and in the Ordering Paragraphs below.

2. Effective immediately, the IOUs participating in the joint CEP shall do or adhere to the following:

a. The IOUs are directed to work with the EREG to resolve and terminate the affairs of the EREG in a timely manner, and to complete such activities and dissolve the EREG within 30 days from today's date.

b. The IOUs shall ensure that effective immediately, the EREG shall no longer oversee the development and implementation of the joint CEP on behalf of the IOUs.

c. The IOUs are directed to assume immediate and direct control and responsibility for the development and implementation of the joint CEP effort as discussed in this decision, and shall work with DDB Needham and its subcontractors to return the oversight responsibilities for the joint CEP to the IOUs.

d. The IOUs shall take the necessary steps to replace the EREG with the IOUs with respect to all pertinent contracts or negotiations for the development and implementation of the joint CEP.

e. Consistent with the discussion in the text of this decision, the IOUs shall forward a letter to the assigned Commissioners and ALJ within 30 days from the effective date of this decision to inform the Commission as to the status of their efforts

to resolve the various contractual and financial arrangements that EREG had previously entered into, or which were pending as of the date of this decision.

f. The IOUs shall require the lead agency for the joint CEP effort to submit monthly financial statements and cash flow reports with respect to all CEP-related activities, which shall be included by the IOUs in their monthly report to the Commission as described in Ordering Paragraph 3.h. of Decision (D.) 97-03-069.

g. The IOUs are directed to file the monthly report as contemplated in Ordering Paragraph 3.h. of D.97-03-069.

h. The IOUs shall obtain a copy of the media plan for the joint CEP effort, and deliver that to the assigned Commissioners and to the assigned ALJ within 20 days of today's date. If the media plan contains confidential information, it should be submitted pursuant to Public Utilities (PU) Code Section 583. Should the media plan be revised during the course of the CEP efforts, a copy of the revised media plan shall be forwarded as described within 20 days of the revised plan's availability.

i. The IOUs shall ensure that the entity operating the toll-free call center on behalf of the IOUs maintains a daily log of incoming calls as described in this decision.

j. The IOUs shall be required to submit a monthly report containing a summary of the daily log information as discussed in this decision. The monthly report shall be submitted to the Directors of the Consumer Services Division and the Energy Division beginning on the 15th day of the month following the startup of the call center's operation, and on the 15th day of each month thereafter. This monthly report shall report on the preceding calendar month's daily log activities.

k. The IOUs shall work with the lead agency for the joint CEP effort to develop bill insert materials, and all of the IOUs shall be required to insert those materials in their respective monthly bills. The bill insert materials are subject to the review process as set forth in Ordering Paragraph 5 below.

l. The IOUs shall ensure that the joint CEP messages include the messages and themes described in the text of this decision.

m. The IOUs shall coordinate the joint CEP effort with the efforts of the Low-Income Governing Board and the California Energy Commission.

3. The Executive Director shall prepare for the Commission's approval resolutions thanking and commending each of the EREG members for their invaluable contributions to the development of the joint CEP on behalf of the IOUs.

a. The EREG members may express their interest in serving in an advisory capacity to the Commission by joining the Electric Education Trust (EET). If they elect to do so, they shall write a letter to the assigned Commissioners, with a copy to the Executive Director and the assigned ALJ, within 15 days from the mailing date of this decision, stating their interest in serving on the EET.

b. Upon the receipt of the aforementioned letters, the Commission, by way of a decision, shall consider whether an overlap of interests would occur from adding additional members, and if the boards would benefit from having additional members.

c. The Executive Director is directed to ensure that a copy of this decision is served on all the members of EREG.

4. The total budget for the joint CEP, Commission outreach activities, and community-based education and outreach activities shall be \$89,294,580 as shown in the Revised Budget Summaries, and as explained in the text of this decision. D.97-03-069 previously authorized \$23 million of the \$89,294,580.

a. Within 20 days from today's date, the IOUs shall file at the Docket Office and serve on the service list a detailed Revised Budget Summary, in the format discussed in this decision.

b. The IOUs' budget for its joint CEP efforts shall not exceed the total authorized subtotal of \$73,494,580.

c. The IOUs shall ensure that the specific budget allocations in each budget category and the specific budget line items shall not change, except for the limited discretion provided for in the text of this decision.

(1) Should greater spending discretion be necessary, the IOUs shall file an advice letter specifying the proposed change.

d. SCWC is authorized to establish memorandum accounts to track its expenditures related to the joint CEP effort that were incurred on or after June 6, 1997. SCWC shall file an advice letter, if it has not done so already, establishing such accounts within 30 days from today's date.

e. The IOUs are authorized to track their expenditures related to the joint CEP efforts consistent with D.97-03-069 and this decision.

f. Subject to the disallowance formula and procedure for failure to achieve the aided awareness target of 60%, as discussed in this decision, the costs allocated to these IOUs shall be recoverable from their customers pursuant to PU Code Section 376.

5. We shall delegate to the assigned Commissioners, in coordination with the Director of the Commission's Energy Division, and his designees, and the Public Advisor, the responsibility for reviewing all of the proposed CEP materials in accordance with the text of this decision and the following:

a. The IOUs participating in the joint CEP shall submit all of the proposed CEP materials to the Commission's Energy Division for review.

(1) The materials to be submitted for review include all of the materials that the IOUs are planning to use or incorporate in their printed and spoken materials for the joint CEP effort, as well as all materials which form the basis for answering questions as part of a CEP-related activity. The submitted materials shall be as close to the finished version and format as possible.

b. The IOUs may submit the proposed materials to the Energy Division in stages as the materials are developed.

c. A cover letter shall accompany each submission of proposed materials and contain the information discussed in this decision.

d. The Energy Division shall review the submitted materials only to ensure technical accuracy, and to ensure that the materials are neutral and unbiased in tone.

e. The Energy Division shall have 3 business days from the date of receipt to consult with the assigned Commissioners, to consult with the Public Advisor, to review the submitted CEP materials, and to notify the IOUs if the submitted

materials are technically inaccurate or biased. If no such notification occurs within this time, the materials submitted shall be deemed approved for use in the joint CEP.

6. In the event the review process for the CEP materials is not working as intended, the assigned Commissioners are delegated the authority to entertain a motion to reconsider the review process, and to implement an alternate review process should they concur that one is necessary.

a. Should such a motion be filed, interested parties must file and serve the response within 7 days of the date such a motion was served.

7. The assigned Commissioners are delegated the responsibility to decide on the specific language of the legend for all CEP materials when the initial set of CEP materials is submitted for review.

8. All CEP materials that are disseminated to the general public shall contain the following:

a. All of the approved CEP printed materials shall contain a written legend consistent with the discussion in this decision, and in the specific format to be decided by the assigned Commissioners as set forth in Ordering Paragraph 7 above. In addition, the source of the printed material shall be identified as the Electric Education Call Center.

b. All approved CEP television spots shall contain a discernible written legend or voiceover identical to the legend adopted pursuant to the preceding paragraph.

c. All approved CEP radio spots shall contain a voiceover identical to the legend adopted pursuant to the above paragraphs.

d. All other media disseminating CEP materials shall contain the legend discussed above.

e. The call center operators answering the incoming calls shall refer to it as the Electric Education Call Center.

f. All approved CEP materials delivered or mailed out to the general public shall list the sender's name as the "Electric Education Call Center."

9. An aided awareness target of 60% is adopted for all the target audiences for the joint CEP effort.

a. The IOUs participating in the joint CEP shall be held responsible for ensuring that the CEP meets or exceeds the adopted aided awareness target of 60% for the total of all target audiences.

b. If the aggregated aided awareness number for the total of all target audiences is below the 60% aided awareness target, for every percentage point below the 60% target, there shall be a three percentage point disallowance of the IOUs' total joint CEP expenditures.

c. The failure to achieve the aided awareness target discussed in this Ordering Paragraph shall result in a disallowance of the monies tracked in the memorandum account for the joint CEP costs.

d. The IOUs shall ensure that the lead agency conducts a monitoring and adjustment research study during the joint CEP effort, and a monitoring study at the conclusion of the joint CEP effort.

(1) One of the purposes of the joint CEP effort shall be to monitor the aided awareness goal for all target audiences as discussed in the text of this decision and in this ordering paragraph.

(2) The monitoring study that is performed at the conclusion of the joint CEP effort shall be filed at the Docket Office within 60 days of the conclusion of the joint CEP, and served on the service list.

e. The Consumer Services Division is directed to arrange for an independent and objective monitoring study of the CEP effort to determine the aided awareness results for all target audiences as discussed in the text of this decision and in this Ordering Paragraph.

(1) The Consumer Services Division is authorized to spend up to \$250,000 to retain the services of a consultant to perform the aided awareness monitoring study.

(2) The monitoring study performed on behalf of the Consumer Services Division shall be filed at the Docket Office within 60 days of the conclusion of the joint CEP, and served on the service list.

f. Should either of the studies demonstrate that the post-CEP aided awareness for the aggregate of all of the target audiences was less than 60%, an assigned Commissioners' ruling or ALJ ruling will issue which will explain the procedures to be followed to address this shortfall.

10. The EET is authorized to design a community-based education and outreach effort, to submit such a proposal to the Commission, and to manage such an effort after Commission review and approval of such a proposal.

a. The EET is authorized to retain the services of a consultant to assist in the design of this community-based organization (CBO) educational outreach effort, should one be needed. The design and implementation of such an effort shall be consistent with the purpose and goals of such an effort as stated in the text of this decision.

b. The EET is authorized to retain the services of a consultant to manage this effort should one be needed, on the behalf of and at the direction of the EET once the Commission has approved the proposal for such an effort.

c. The EET shall file its proposal at the Docket Office no later than October 15, 1997, and serve it on the service list. The proposal shall also contain the EET's revised work plan and revised budget, including the EET's per diem and reimbursement policies. Interested persons may file comments on the proposal, revised work plan, and revised budget within 15 days of the service of the EET's filing.

d. The Director of the Consumer Services Division shall appoint a staff person to act as a liaison with the EET regarding the CBO educational outreach effort so as to facilitate the use of Commission resources in this endeavor.

e. The administration costs for the EET's design, implementation and management of the CBO educational outreach effort shall come from the \$3 million that was previously authorized for the EET in D.97-03-069.

f. The \$10 million authorized in this decision shall be designated for the efforts of the organizations and entities participating in the Commission-approved CBO educational outreach effort as described above.

g. The EET members shall avoid a conflict of interest as discussed in this decision.

11. The Energy Division, in consultation with the Commissioners and the Public Advisor, is delegated the responsibility to prepare a bill insert notifying all customers of the IOUs, as well as the customers of PacifiCorp and Sierra Pacific Power Company, of the statewide CEP effort.

a. A ruling by the assigned Commissioners or the assigned ALJ will set forth the approved bill insert to be used. Such a ruling shall issue within 30 days from the effective date of this decision.

b. All of the investor-owned electrical corporations that are authorized to participate in the joint CEP, or authorized to design and implement their own utility-specific CEPs, are directed to include this bill insert in their respective monthly bills as soon as practicable after it becomes available.

12. The Consumer Services Division shall file its recommendations as to whether the toll-free call center should be continued, and what entity should take over the call center, if any.

a. The recommendations shall be filed at the Docket Office on or before January 30, 1998, and served on the service list. Interested persons may file their comments to such filing within 15 days from the date of service.

13. The Commission staff is authorized to carry out the outreach activities contained in the May 12, 1997 and July 14, 1997 staff reports, as clarified in this decision.

a. The Commission staff shall continue its coordination with the IOUs to implement the joint CEP, especially with respect to: (a) the toll-free call center and the Commission's registration status toll-free number; (b) coordinating contacts with opinion leaders and the media; and (c) coordinating the answering of the more complex questions at the call center.

14. Effective immediately, the Consumer Education Advisory Panel (CEAP) shall be dissolved.

a. The Executive Director shall prepare for the Commission's approval resolutions thanking and commending each of the CEAP members for their invaluable contributions and input into the development of the joint CEP.

b. Those CEAP members who are not on the EET may express their interest in serving on the EET. If they elect to do so, they shall write a letter to the assigned Commissioners, with a copy to the Executive Director and the assigned ALJ, within 15 days from the mailing date of this decision. The Commission shall act upon those letters in accordance with Ordering Paragraph 3.b.

c. The Executive Director is directed to ensure that a copy of this decision is served on all the members of the CEAP.

d. To the extent that the CEAP members have any outstanding per diem or travel and lodging reimbursement claims, those claims shall be paid for out of the \$200,000 authorized for CEAP administrative support.

(1) Should there be any money left over after the above claims are paid, the remaining portion of the monies shall be made available to the EET should the need arise.

15. D.97-03-069 shall be modified as follows:

a. At page 27, in the second paragraph at the line numbered "(2)", the words "multiple companies" shall be replaced with the words "multiple providers."

b. The second sentence of Ordering Paragraph 10.j. shall be modified by deleting the words "investor-owned utilities on behalf of the EET" and replacing it with "EET." Thus, the second sentence, as modified, shall read as follows:

"Any request for monies in excess of the initial authorization of \$3 million shall be filed as a motion by the EET with the Commission, and served on all the parties to this proceeding, who shall have 14 days from the date of service to file written comments."

16. The registration form which appears as Appendix B of D.97-05-040 shall be modified in the "Type of Ownership" portion of the form to include a category entitled "Government Entity." That change is reflected in the amended registration form attached hereto as Appendix B. The Commission staff is directed to make that change on the registration forms that are available to the public.

This order is effective today.

Dated August 1, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners

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